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John Damm

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(1906.)

(RAILWAYS.)

(Chap. 30.)

(CHAPTER 30.)

An Act respecting Steam, Electric and Street  
Railways.

*Assented to 14th May, 1906.*

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STREET

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**H**IS MAJESTY, by and with the advice and consent  
of the Legislative Assembly of the Province of On-  
tario, enacts as follows:

#### SHORT TITLE.

Short title.

1. This Act may be cited as "*The Ontario Railway Act,*  
*1906.*"

#### INTERPRETATION.

Interpretation  
of words.

2. Where the words following occur in this Act, and in  
the special Act incorporating any Railway or Street Rail-  
way Company, they shall be construed in the manner here-  
inafter mentioned, unless a contrary intention appears:

"The Special  
Act."

(1) "The Special Act," shall be construed to mean any  
Act authorizing the construction of or otherwise speci-  
ally relating to a railway or street railway, whether  
operated by steam, electricity or other motive power,  
and with which this Act is incorporated; and in all  
cases where this Act is made applicable to street railways  
or street railway companies the words "the special Act"  
shall include a charter of incorporation of a street railway  
company under the Great Seal of the Province of Ontario;  
or supplementary letters patent relating to such a company.

"Prescribed."

(2) "Prescribed," used in this Act in reference to any  
matter herein stated, shall be construed to refer to such  
matter as the same is prescribed or provided for in the  
special Act; and the sentence in which such word occurs  
shall be construed as if, instead of the word "prescribed,"  
the expression "prescribed for that purpose in the special  
Act" had been used;

(3)

(3) "The Lands" shall mean the lands which by the special Act are authorized to be taken or used for the purposes thereof; "The Lands."

(4) "The Undertaking" shall mean the railway and works of whatever description, by the special Act authorized to be executed. "The Undertaking."

(5) "Board" shall mean "The Ontario Railway and Municipal Board." "Board."

(6) "By-law," when referring to the act of the company shall include a resolution; "By-law."

(7) "Costs" shall include fees, counsel fees, and expenses; "Costs."

(8) "Land" or "lands" shall include all real estate, mesuages, lands, tenements and hereditaments of any tenure; "Lands."

(9) "Lease" shall include any agreement for a lease; "Lease."

(10) "Toll" shall include any rate or charge or other payment payable under this Act or the special Act for any passenger, animal, carriage, goods, merchandise, articles, matters or things conveyed on the railway; "Toll."

(11) "County" shall include any union of counties, and any provisional judicial district; "County."

(12) "County Court Judge" shall include a Judge of a District Court; "County Court Judge."

(13) "Highways" shall mean any public road, street, lane, and other public way or communication; "Highway."

(14) "Street" shall include any highway. "Street."

(15) "Sheriff" shall include the Deputy Sheriff; and where any matter in relation to any lands is required to be done by any Sheriff or Clerk of the Peace, the expression "the Sheriff," or the expression "Clerk of the Peace" shall, in such case, be construed to mean the Sheriff or Clerk of the peace of the district, county, city, or place where such lands are situate; and if the lands in question, being the property of one and the same person, are situate not wholly in one district, county, city, or place, the same expression shall be construed to mean the Sheriff or Clerk of the Peace of any such district, county, city, or place where any part of such lands is situate; "Sheriff" "Clerk of the Peace."

(16) "Goods" shall include personal property of every description that may be conveyed upon the railway, or upon steam vessels, or other vessels connected with the railway; "Goods."

(17) A "Justice" shall mean Justice of the Peace or Stipendiary or Police Magistrate acting for the district, county, "Justice."



ty, city, or place where the matter requiring the cognizance of a Justice arises, and who is not interested in the matter; and where the matter arises in respect of lands being the property of the same person, situate not wholly in any one district, county, city or place, the word "Justice" shall mean a Justice or Stipendiary or Police Magistrate acting for the district, county, city or place where any part of such lands is situate, and who is not interested in such matter;

"Owner."

(18) "Owner" (where, under the provisions of this Act or the special Act, any notice is required to be given to the owner of any lands, or where any act is authorized or required to be done with the consent of any such owner) shall be understood to mean any corporation or person who, under the provisions of this Act or the special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the company;

"The Company."

(19) "The company" shall mean the company or person authorized by the special Act to construct the railway or street railway (if the section of the Act in which the words occur is applicable by its terms to street railways), and shall include all persons or corporations leasing or operating any railway.

"The Railway."

(20) "The railway" shall mean the railway and works by the special Act authorized to be constructed;

"Street Railway."

(21) "Street railway" shall mean a railway constructed or operated along a highway under or by virtue of an agreement with or by law of a city or town, and shall include all portions of such railway within such city or town and for one and a half miles beyond the limits thereof. Although such one and a half miles may be constructed under a by-law of, or agreement with a municipality, other than such city or town.

"Shareholder."

(22) "Shareholder" shall mean every subscriber to or holder of stock in the undertaking, and shall extend to and include the personal representatives of the shareholder.

"Inspecting engineer."

(23) "Inspecting engineer" shall mean an engineer who is directed by the Board to examine any railway or works, and shall include two or more engineers when two or more are so directed;

"Working expenses."

(24) "Working expenses" shall mean and include all expenses of maintenance of the railway, and all such tolls, rents or annual sums as are paid in respect of property leased to or held by the company, apart from the rent of any leased line, or in respect of the hire of rolling stock, let to the company; also all rent charges or interest



est on the purchase money of lands belonging to the company purchased but not paid for or not fully paid for; and also expenses of or incidental to working the railway, and the traffic thereon, including all necessary repairs and supplies to rolling stock while on the lines of another company; also rates, taxes, and insurance; also, all salaries and wages of persons employed in and about the working of the railway and traffic; and all office and management expenses, including directors' fees, agency, legal and other like expenses; also all costs and expenses of and incidental to the compliance by the company with any order of the Board under this Act; and generally all such charges, if any, not above otherwise specified, as in all cases of English railway companies are usually carried to the debit of revenue as distinguished from capital account;

(25) "Traffic" shall include passengers, goods and rolling stock.

(26) "Train" shall include any engine, motor car or other rolling stock;

(27) "Rolling stock" shall mean and include any locomotive, engine, motor, car, tender, snow plough, flanger, and every description of car or of railway equipment designed for movement, on its wheels, over or upon the rails or tracks of the company;

(28) "Secretary" shall mean the Secretary of the Board.

#### APPLICATION OF ACT.

3.—(1) This Act shall, unless otherwise expressed, apply to all persons, companies, railways (other than Government railways) and (when so expressed) to street railways within the legislative authority of the Legislature of Ontario, and whether such railways are operated by steam, electricity or other motive power, and whether constructed and operated on highways or on lands owned by the company or partly on highways and partly on such lands, and shall be incorporated and construed, as one Act, with the special Act, subject as herein provided.

(2) No section of this Act shall apply to street railways unless it is so expressed and provided

4. Any section of this Act may, by any special Act passed by the Legislature, be excepted from incorporation therewith, or may thereby be extended, limited or qualified. It shall be sufficient, for the purposes of this section, to refer to any section of this Act by its number merely.

Or may be  
extended,  
limited or  
qualified.

As to excep-  
tions, etc.,  
previous to  
this Act.

Conflict  
between this  
Act and  
Special Act.

5. If in any special Act heretofore passed by the Legislature it is enacted that any provision of *The Railway Act of Ontario* or of *The Electric Railway Act*, or of *The Street Railway Act* in force at the time of the passing of such special Act, is excepted from incorporation therewith, or if the application of any such provision is, by such special Act, extended, limited or qualified, the corresponding provision of this Act shall be taken to be excepted, extended, limited or qualified, in like manner; and unless otherwise expressly provided in this Act or the special Act this Act shall apply to every railway company incorporated under a special Act or any public Act of this Province, and the sections expressly made applicable shall apply to every street railway company so incorporated, but where the provisions of the special Act and the provisions of this Act are inconsistent the special Act shall be taken to over-ride the provisions of this Act so far as is necessary to give effect to such special Act.

#### ORGANIZATION OF THE COMPANY.

##### *Offices.*

Head office.

Change of  
location.

6. The head office of the company shall be in the place designated in the Special Act, but the company may, by by-law, from time to time, change the location of its head office to any place in Ontario, notice thereof to be given to the Secretary of the Board who shall keep a register for the purpose.

##### *Provisional Directors.*

Provisional  
directors.

Majority  
quorum.

Powers.

Deposit of  
moneys.

7.—(1) The persons mentioned by name as such in the Special Act are hereby constituted provisional directors of the company, and of such provisional directors a majority shall be a quorum, and the said provisional directors, shall hold office as such until the first election of directors, and may forthwith open stock books and procure subscriptions of stock for the undertaking, and receive payments on account of stock subscribed and make calls upon subscribers in respect of their stock, and sue for and recover the same, and receive for the company any grant, loan, bonus or gift made to it or in aid of the undertaking and enter into any agreement authorized by this Act or by the Special Act with the person or corporation making such grant, loan, bonus or gift respecting the condition or disposition thereof and cause plans and surveys to be made, and deposit in any chartered bank of Canada having an office in Ontario moneys received by them on account of stock subscribed, which  
moneys

moneys shall not be withdrawn, except for the purposes of the undertaking, or upon the dissolution of the company for any cause whatsoever.

(2) The said provisional directors shall have power to add to their number, or to substitute for any member of the said Board of provisional directors (whether named in the Special Act, or by the said provisional directors) who may desire to resign or withdraw from his position as a provisional director of the said company, any other person as a provisional director thereof; and all such persons as shall, from time to time, be provisional directors of the said company, pursuant to the provisions of this Act, shall constitute the board of provisional directors thereof.

Changes in  
board of  
provisional  
directors.

(3) If more than the whole stock has been subscribed, the provisional directors shall allocate and apportion the authorized stock among the subscribers as they deem most advantageous and conducive to the furtherance of the undertaking; and in such allocation the said directors may in their discretion exclude any one or more of the said subscribers, if in their judgment such exclusion will best secure the building of the said railway; and all meetings of the provisional board of directors shall be held at the head office of the company or at such other place in the Province of Ontario as may in the opinion of the provisional directors best suit the interests of the company.

Allotment of  
stock.

(4) No subscription for stock in the capital stock of the company shall be binding on the company unless it shall be approved by resolution of the provisional directors or of the directors, nor unless ten per centum of the amount subscribed has been actually paid within one month after subscription.

When subscrip-  
tion for stock  
to be binding.

### *Capital.*

8.—(1) The capital stock of the company, the amount of which shall be stated in the Special Act, shall be divided into shares of one hundred dollars each; and the money so raised shall be applied in the first place, to the payment of all fees, expenses and disbursements for procuring the passing of the Special Act, and for making the surveys, plans and estimates of the works authorized by the Special Act; and all the remainder of such money shall be applied to the making, equipping, completing and maintaining of the railway, and other purposes of the undertaking.

Capital stock  
and shares.

Application of  
proceeds.

(2) So soon as twenty-five per centum of the capital stock is subscribed and ten per centum paid thereon into some chartered

Calling first  
meeting for  
election of  
directors.



chartered bank of the Dominion having an office in the Province of Ontario, to the credit of the company, and which shall on no account be withdrawn therefrom unless for the lawful purposes of the company, the said provisional directors or a majority of them shall call a general meeting of the shareholders for the purpose of electing directors of the company, giving at least four weeks' notice of such meeting by advertisement in the *Ontario Gazette*, and in at least one newspaper published in the place where the head office is situate, of the time, place and purpose of the said meeting.

When subscribers may call first general meeting.

(3) If the provisional directors neglect to call such meeting for three months after twenty-five per centum of the capital stock shall have been subscribed and ten per centum thereof paid up the same may be called by any five of the subscribers who have so paid up ten per centum and who collectively have subscribed for not less than twenty-five shares of the capital stock in the company and who have paid up all calls thereon.

Number of directors and term of office, etc.

(4) At such general meeting the shareholders present either in person or by proxy, who shall at the opening of such meeting have paid up ten per centum on the stock subscribed by them, shall elect directors of the company in manner and qualified as hereinafter mentioned, who shall constitute a board of directors and shall hold office until the next general annual meeting, and a majority of the directors shall form a quorum of the board, and may pass such rules, regulations and by-laws as may be deemed expedient and are not inconsistent with this Act; and the said board may employ and pay one of their number as managing director.

Increase of capital stock.

Notice of meetings and object.

Entry in minutes.

9. The original capital stock of the company may, with the approval of the Board, be increased, from time to time, to any amount, if such increase is sanctioned by a vote, in person or by proxy, of the shareholders who hold at least two-thirds in amount of the subscribed stock of the company, at a meeting expressly called by the directors for that purpose by a notice in writing to each shareholder, delivered to him personally, or properly directed to him and deposited in the post office at least twenty days previously to such meeting, stating the time, place and object of such meeting, and the amount of the proposed increase; and the proceedings of such meeting shall be entered in the minutes of the proceedings of the company, and thereupon the capital stock may, with such approval, be increased to the amount sanctioned by such vote.

*General Meetings.*

10.—(1) A general meeting of the shareholders for the <sup>Annual</sup> election of directors and for the transaction of other <sup>meetings.</sup> business connected with or incident to the undertaking, to be called "the annual meeting," shall be held annually on the day mentioned in the special Act, or on such day <sup>Special</sup> as may be fixed for that purpose by the by-laws of the com- <sup>meetings.</sup> pany and other general meetings, to be called "special meetings," may be called at any time by the directors, or by shareholders representing at least one-fourth in value of the subscribed stock, if the directors, having been requested by such shareholders to convene such special meeting, for twenty-one days thereafter fail to call such meeting.

(2) The annual meetings shall be held at the head office of the company.

(3) Special general meetings of the shareholders of the <sup>Special general</sup> company may be held at such places in the Province of <sup>meetings.</sup> Ontario and at such times and in such manner and for such purposes as may be provided by the by-laws of the company, upon such notice as is provided in section 11 of this Act.

11. Two weeks' public notice of any meeting of the share- <sup>Notice of</sup> holders shall be given by advertisement, in at least one <sup>meetings.</sup> newspaper published in the place where the head office is situate—in which notice shall be specified the place and the day and the hour of meeting; all such notices shall be published weekly, and a copy of the newspaper containing such <sup>Evidence.</sup> notice shall, on production thereof, be evidence of the sufficiency of such notice.

12.—(1) Any business connected with or incident to the <sup>What business</sup> undertaking may be transacted at an annual meeting, ex- <sup>may be</sup> cepting such business as by this Act is required to be <sup>transacted.</sup> transacted at a special meeting; but no special meeting shall enter upon any business not set forth in the notice upon which it is convened.

(2) The number of votes to which each shareholder shall <sup>Votes on</sup> be entitled on every occasion when the votes of the share- <sup>shares.</sup> holders are to be given, shall be in proportion to the number of shares held by him, and on which all calls due have been paid.

(3) Every shareholder, whether resident in Canada or <sup>Shareholders</sup> elsewhere, may vote by proxy, if he sees fit, and if such <sup>may vote by</sup> proxy produces from his constituent an appointment in <sup>proxy.</sup> writing, in the words or to the effect following, that is to say:

I,

Form of  
proxy.

I, \_\_\_\_\_, of \_\_\_\_\_, one of the shareholders of the \_\_\_\_\_, do hereby appoint \_\_\_\_\_, to be my proxy, and in my absence to vote or give my assent to any business, matter or thing relating to the undertaking of the said \_\_\_\_\_ that is mentioned or proposed at any meeting of the shareholders of the said company, in such manner as he the said \_\_\_\_\_ thinks proper.  
In witness whereof, I have hereunto set my hand and seal, the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_

Majority to  
govern.

(4) Any vote by proxy shall be as valid as if the constituent had voted in person, but no person shall be qualified to be appointed a proxy who is not himself a shareholder in the company and every matter or thing proposed or considered at any meeting of the shareholders shall be determined by the majority of votes and proxies then present and given, and all decisions and acts of any such majority shall bind the company, and be deemed the decisions and acts of the company.

Certified  
copies of  
minutes, etc.

Evidence.

13.—(1) Copies of the minutes of proceedings and resolutions of the shareholders of the company, at any annual or special meeting, and of the minutes of proceedings and resolutions of the directors, at their meetings, extracted from the minute book, kept by the secretary of the company, and by him certified to be true copies extracted from such minute books, and when sealed with the company's seal shall, without proof of the signature of such secretary, be evidence of such proceedings and resolutions in any court.

Notices by  
secretary  
valid.

(2) All notices given by the secretary of the company by order of the directors shall be deemed notices by the directors of the company.

#### *President and Directors.*

Election of  
board of  
directors.

14.—(1) A board of directors of the company to manage its affairs, the number of whom shall be stated in the special Act, and a majority of whom shall form a quorum, shall be chosen at the annual meeting; and if such election is not held on the day appointed therefor, the directors shall cause such election to be held at a special meeting duly called for that purpose within as short a time as possible after the day so appointed.

Who entitled  
to vote.

(2) On the day so notified, no person shall be admitted to vote except those who would have been entitled to vote had the election been held on the day when it ought to have been held.

Vacancies, how  
to be filled up.

(3) Vacancies in the board of directors shall be filled in the manner prescribed by the by-laws.

(4)



(4) No person shall be a director unless he is a share-<sup>Who qualified to be a</sup>holder, owning at least ten shares of stock absolutely <sup>director.</sup> in his own right, and qualified to vote for directors at the election at which he is chosen.

(5) The directors appointed at the last election or those <sup>Term of office of directors.</sup> appointed in their stead, in case of vacancy, shall remain in office until the next ensuing election of directors.

(6) In case of the death, absence or resignation of any <sup>Vacancies, how supplied.</sup> of the directors, others may be appointed in their stead by the remaining directors; but if such appointment is not made such death, absence or resignation shall not invalidate the acts of the remaining directors.

(7) The directors shall, at their first or at some other <sup>President.</sup> meeting after the election elect one of their number to be the president of the company, who shall, always, when present, be the chairman of and preside at all meetings of the directors, and shall hold his office until he ceases to be a director, or until another president has been <sup>Vice-President.</sup> elected in his stead; and they may in like manner elect a vice-president, who shall act as chairman in the absence of the president.

(8) The directors at any meeting at which not less than <sup>Quorum.</sup> a quorum are present, shall be competent to use and exercise all and any of the powers vested in the directors.

(9) The act of a majority of a quorum of the directors <sup>Acts of majority to bind the whole.</sup> present at any meeting regularly held, shall be deemed the act of the directors.

(10) No director shall have more than one vote at any <sup>Casting vote.</sup> meeting, except the chairman, who shall, in case of a division, of equal numbers, have the casting vote.

15. The directors shall be subject to the control of the <sup>Directors to be subject to shareholders and by-laws.</sup> shareholders at their annual meetings, and to all by-laws of the company, and to the orders and directions from time to time made at the annual or at any special meetings, such orders and directions not being contrary to any express directions or provisions of this Act or the special Act.

16. No person concerned or interested in any contract <sup>Contractors with company not to be directors.</sup> under or with the company, or being a surety for any contractor shall be capable of being chosen a director, or of holding or continuing in the office of director or provisional director, nor shall any person being a director or provisional director or promoter of the company enter into or be directly or indirectly interested or concerned in or participate in the profit of any contract with the company, not relating to the purchase of land necessary for the railway, or be or become a partner of any contrac-

tor

tor with the company; and in the event of any such contract being made by or on behalf of any director or provisional director or promoter an action shall lie in any court of competent jurisdiction against such director or provisional director or promoter at the suit of any shareholder of the company or of any municipality through which any part of the railway passes, for the benefit of the funds of the company, for the whole amount of profit accruing to such director, provisional director or promoter from the contract so made or fulfilled.

By-laws for  
management  
of Company.

17. The directors may make by-laws for the management and disposition of the stock, property, business and affairs of the company, not inconsistent with the laws of this Province, and for the appointment of all officers, servants and artificers, and for prescribing their respective duties and salaries.

May appoint  
officers.

18. The directors may from time to time appoint such officers as they deem requisite, and shall take sufficient security, by one or more penal bonds, or otherwise, from the manager and officers for the time being, for the safe keeping and accounting by them respectively of the moneys raised by virtue of this Act and the special Act, and for the faithful execution of their offices, as the directors think proper.

Retirement of  
officers, etc.

19. The directors may by by-law or resolution provide for the retirement of such of the company's officers and servants, on such terms as to an annual allowance or otherwise, as in each case the directors, in the interest of the company's service and under the circumstances, consider just and reasonable.

Remuneration  
of directors.

20. The directors may be paid such reasonable remuneration for their services as may be sanctioned by the shareholders by resolution passed at the annual general meeting to be held for the purpose of electing the successors of such directors.

Acting  
president.

21. In case of the absence or illness of the president, the vice-president, and in case of the absence or illness of the president and vice-president a director appointed for that purpose shall have all the rights and powers of the president, and may sign all debentures, and other instruments, and perform all acts which by the regulations and by-laws of the company or by this Act are required to be signed, performed and done by the president.

Absence of  
president may  
be entered in  
the minutes,  
and certified,  
etc.

22. The directors may at any meeting require the secretary to enter such absence or illness among the proceedings of such meeting, and a certificate thereof signed by the secretary shall be delivered to any person or persons requiring

requiring the same on payment to the treasurer of \$1, and such certificate shall be taken and considered as *prima facie* evidence of such absence, or illness at and during the period in the said certificate mentioned in all proceedings in courts of justice or otherwise.

23. The directors shall cause to be kept, and annually on the 31st day of December, shall cause to be made up and balanced, a true, exact and particular account of all moneys collected and received by the company, or by the directors or manager thereof, or otherwise, for the use of the company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the company. Directors to cause annual accounts to be kept.

### *Calls.*

24.—(1) The directors may from time to time make such calls of money not exceeding ten per centum of the amount subscribed upon the respective shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they deem necessary, and thirty days' notice at the least shall be given of each call, and no call shall exceed the prescribed amount determined in the special Act, or be made at a less interval than two months from the previous call, nor shall a greater amount be called in, in any one year than the amount prescribed in the special Act, but nothing herein contained shall prevent the directors from making more than one call by one resolution of the board: Provided, that the intervals between such calls, the notices of each call, and the other provisions of this Act and of the special Act, in respect of calls, are duly observed and given. Calls

(2) All notices of calls upon the shareholders of the company shall be published weekly in the *Ontario Gazette* Notice of meetings, how published.

(3) Every shareholder shall be liable to pay the amount of the call so made in respect of the shares held by him to the persons and at the times and places from time to time appointed by the company or the directors. Payment of calls, how to be made.

(4) If, before or on the day appointed for payment any shareholder does not pay the amount of the call, he shall be liable to pay interest for the same, at the legal rate for the time being, from the day appointed for the payment thereof to the time of the actual payment. Interest to be chargeable on unpaid calls.

(5) If at the time appointed for the payment of a call, a shareholder fails to pay the amount of the call, he may be sued for the same in any court of competent jurisdiction, and the same may be recovered, with lawful interest from the day on which the call became payable. Amount of call may be recovered by suit.

(6)



What formalities necessary in actions for calls.

(6) In an action to recover money due upon a call, it shall not be necessary to set forth the special matter, but it shall be sufficient to state that the defendant is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, in respect of one call or more, upon one share or more, stating the number and amount of each of such calls, whereby an action has accrued to the company by virtue of the special Act.

*Shares and their Transfer.*

Shares may be transferred.

25.—(1) Shares in the company may, by the holders thereof, be sold and transferred by instrument in writing, made in duplicate—one part of which shall be delivered to the directors, to be filed and kept for the use of the company, and an entry whereof shall be made in a book to be kept for that purpose, and no interest or dividend on the shares transferred shall be paid to the purchaser until such duplicate is so delivered, filed and entered. •

Form of transfer.

(2) Transfers may be in the form following, varying the same, as the case may require:—

I, A. B., in consideration of the sum of \_\_\_\_\_ paid to me by C. D., hereby do sell and transfer to him \_\_\_\_\_ share (or shares) of stock of the \_\_\_\_\_, to hold to him the said C. D., his executors, administrators and assigns, subject to the same rules and orders, and on the same conditions that I held the same immediately before the execution hereof. And I the said C. D. do hereby agree to accept the said \_\_\_\_\_ share (or shares) subject to the same rules, orders and conditions.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_ in the year 19 \_\_\_\_\_.

Shares to be personal estate—transfer of.

26. The stock of the company shall be personal estate, but no shares shall be transferable until all previous calls thereon have been fully paid in, or the said shares have been declared forfeited for the non-payment of calls thereon, and no transfer of less than a whole share shall be valid.

Transmission of shares, other than by transfer, provided for.

27. If any share in the company is transmitted by the death, bankruptcy, or last will, donation or testament, or by the intestacy, of any shareholder, or by any lawful means other than the transfer hereinbefore mentioned, the person to whom such share is so transmitted shall deposit in the office of the company a statement in writing, signed by him, declaring the manner of such transmission, together with a duly certified copy or probate of such will, donation or testament, or sufficient extracts therefrom, and such other documents or proof as may be necessary; without which such person shall not be entitled to receive any share of the profits of the company, or to vote in respect of any such share as the holder thereof.

28. The company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of the shares may be subject; and the receipt of the person in whose name any share stands in the books of the company, or if it stands in the name of more persons than one, the receipt of one of the persons named in the register of shareholders, shall from time to time be a sufficient discharge to the company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share may then be subject, and whether or not the company have had notice of the trust; and the company shall not be bound to see to the application of the money paid upon such receipt.

Company not bound to see to execution of trusts.

29.—(1) The certificate of proprietorship of a share shall be admitted in all Courts as *prima facie* evidence of the title of any person, his executors, administrators, successors or assigns, to the share therein specified.

Certificate of proprietorship *prima facie* evidence.

(2) The want of such certificate shall not prevent the holder of any share from disposing thereof.

Want of certificate not to prevent disposing of shares.

(3) Shareholders neglecting or refusing to pay a ratable share of the calls as aforesaid, for the space of two months after the time appointed for the payment thereof, shall forfeit their respective shares in the undertaking and all the profit and benefit thereof; all which forfeitures shall go to the company for the benefit thereof.

Penalty for refusal to pay calls.

(4) No advantage shall be taken of the forfeiture unless the same is declared to be forfeited at a general meeting of the company, assembled at any time after such forfeiture occurred.

Forfeiture of share to be taken advantage of only at a general meeting.

(5) Every such forfeiture shall be an indemnification to and for every shareholder so forfeiting, against all actions or prosecutions whatever, commenced or prosecuted for any breach of contract or other agreement between such shareholder and the other shareholders with regard to carrying on the undertaking.

Effect of forfeiture as to liabilities.

30. The directors may sell, either by public auction or private sale, any shares so declared to be forfeited, upon authority therefor having been first given by the shareholders either at the general meeting at which such shares were declared to be forfeited or at any subsequent general meeting.

Sale of forfeited shares.

31. The company shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of

Limitation.

of

of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture; and if the money produced by the sale of any such forfeited shares is more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and sale thereof, the surplus shall, on demand, be paid to the defaulter.

Payment of  
arrears before  
sale.

32. If payment of such arrears of calls and interest and expenses is made before any share so forfeited and vested in the company is sold, such share shall revert to the person to whom it belonged before such forfeiture, in such manner as if such calls had been duly paid.

Certificate of  
the treasurer to be  
evidence of  
forfeiture, and  
of title in  
purchaser.

33. A certificate of the treasurer of the company that the forfeiture of the shares was declared, shall be sufficient evidence of the fact, and if the certificate so states, of their purchase by the purchaser; and such certificate, with the receipt of the treasurer for the price of such shares, shall constitute a good title to the shares; and the certificate shall be, by the said treasurer, registered in the name and with the place of abode and occupation of the purchaser, and shall be entered in the books to be kept by the company; and such purchaser shall thereupon be deemed the holder of such shares, and shall not be bound to see to the application of the purchase money,—and his title to such shares shall not be affected by any irregularity in the proceedings in reference to such sale; and any shareholder may purchase any share so sold.

Interest on  
advance made  
by shareholder  
to company.

34. Any shareholder who is willing to advance the amount of his shares, or any part of the money due upon his shares, beyond the sums actually called for, may pay the same to the company,—and upon the principal moneys so paid in advance, or so much thereof as, from time to time, exceeds the amount of the calls then made upon the shares in respect to which such advance is made, the company may pay such interest, at the lawful rate of interest for the time being, as the shareholders, who pay such sum in advance, and the company agree upon; but such interest shall not be paid out of the capital subscribed.

No interest to  
be paid out of  
capital.

#### *Shareholders.*

Shareholders  
individually  
liable for shares  
paid up

35. Each shareholder shall be individually liable to the creditors of the company to an amount equal to the amount unpaid on the stock held by him, for the debts and liabilities of the company, and until the whole amount of his stock has been paid up in cash; but shall not be liable to an action therefor before an execution against the company has been returned unsatisfied in whole or in



in part, and the amount due on such execution shall be the amount recoverable with costs against such shareholder.

36. A true and perfect account of the names and places of abode of the several shareholders shall be entered in a book to be kept for that purpose, as well as of the several persons who from time to time become proprietors of, or entitled to any shares therein, and of all the other acts, proceedings and transactions of the company and of the directors for the time being and such account shall be open to the inspection of the shareholders.

Account or names and residence of shareholders to be kept.

37. Aliens, and companies incorporated abroad as well as British subjects and corporations, may be shareholders in the said company, and all such shareholders, whether resident in this Province or elsewhere, shall be entitled to vote on their shares equally with British subjects, and, corporations excepted, shall also be eligible to office as directors in the company.

Rights of aliens.

#### *Preference Stock.*

38.—(1) The directors may make a by-law for creating and issuing any part of the capital stock as preference stock, giving the same such preference and priority as respects dividends and otherwise over ordinary stock as may be declared by the by-law.

Preference stock by-law for issuing.

(2) The by-law may provide that the holders of shares of such preference stock shall have the right to elect a certain stated proportion of the board of directors, or may give them such other control over the affairs of the company as may be considered expedient.

Special rights of preference shareholders.

(3) No such by-law shall have any force or effect whatever until after it has been unanimously sanctioned by a vote of the shareholders present in person or by proxy, at a general meeting of the company duly called for considering the same, or unanimously sanctioned in writing by the shareholders of the company; provided, however, that if the by-law be sanctioned by three-fourths in value of the shareholders of the company the company may petition the Board for an order approving the said by-law, and the Board may approve thereof and from the date of such approval the by-law shall be valid and may be acted upon.

Unanimous sanction required.

Special proviso.

(4) Holders of shares of such preference stock shall be shareholders within the meaning of this Act, and shall in all respects possess the rights and be subject to the liabilities of shareholders within the meaning of this Act, provided, however, that in respect of dividends and otherwise they shall, as against the ordinary shareholders, be entitled to the preferences and rights given by such by-law.

Rights and liabilities of preference shareholders.

Rights of  
creditors  
preserved.

(5) Nothing in this section contained or done in pursuance thereof shall affect or impair the rights of creditors of the company.

*Dividends and Interest.*

Declaration  
of dividends.

39.—(1) The directors may, at a general meeting, declare a dividend to be paid out of the net profits of the undertaking.

Division of  
profits.

(2) Such dividends shall be divisible among the shareholders in proportion to the amounts paid up in cash upon the shares held by them respectively.

Reserve fund.

40. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve fund, to meet contingencies, or for equalizing dividends, or for repairing, maintaining, renewing or extending the railway or any portion thereof, and shall submit their action in regard to such reserve fund to the shareholders at a general meeting for their approval; and the directors may invest the sum so set apart as a reserve fund in such securities as they select, not however inconsistent with this or the special Act.

Dividend not  
to impair  
capital, etc.

41. No dividend shall be declared whereby the capital of the company is in any degree reduced or impaired, or be paid out of such capital, nor shall any dividend be paid, in respect of any share after a day appointed for payment of any call for money in respect thereof, until such call has been paid; but the directors may, in their discretion, until the railway is completed and opened to the public, pay interest at any rate not exceeding five per centum per annum, on all sums actually paid in cash in respect of the shares, from the respective days on which the same have been paid; and such interest shall accrue and be paid at such times and places as the directors appoint for that purpose.

Interest may  
be paid on  
calls pending  
opening  
of road.

Arrears may  
be deducted  
from  
dividends.

42. The directors may deduct, from any dividend payable to any shareholder, all or any such sum or sums of money as are due from him to the company on account of any call or otherwise.

*Bonds, Mortgages, and Borrowing Powers.*

Issue of bonds  
authorized.

43.—(1) The directors of the company, under the authority of the shareholders, to them given at any special meeting, called for the purpose in the manner provided by this Act, or at any annual meeting for which like notice of intention to apply for such authority has been given as is required in the case of a special meeting, and at which  
meeting

meeting, whether annual or special, shareholders representing at least two-thirds in value of the subscribed stock of the company, and who have paid all calls due thereon, are present in person or represented by proxy, may, subject to the provisions in this Act and the Special Act contained, issue bonds, debentures, perpetual or terminating debenture stock, or other securities, signed by the president or other presiding officer and countersigned by the secretary, which countersignature and the signature to the coupons attached to the same may be engraved; and such securities may be made payable at such times and in such manner, and at such place or places in Canada or elsewhere, and may bear such rate of interest, not exceeding five per cent. per annum, as the directors think proper.

Procedure.

When and where payable. Interest.

(2) Such bonds, debentures or other securities shall not exceed the amount authorized by the special Act and may be issued only in proportion to the length of railway constructed or under contract to be constructed.

Limit of bonding powers.

(3) The directors may issue and sell or pledge all or any of the said bonds, debentures, or other securities, at the best price and upon the best terms and conditions which at the time they may be able to obtain, for the purpose of raising money for prosecuting the said undertaking.

Raising money on bonds.

(4) No such bond, debenture or other security shall be for a less sum than one hundred dollars.

Bonds not to be for less than \$100.

(5) The power of issuing bonds conferred upon the company hereby or under the special Act shall not be construed as being exhausted by such issue; but such power may be exercised from time to time upon the bonds constituting such issue being withdrawn or paid off and duly cancelled; but the limit to the amount of bonds, debentures or other securities fixed in the special Act shall not be exceeded.

Right to issue bonds to be a continuous right.

44.—(1) The company may secure such bonds, debentures, or other securities, by a mortgage deed creating such mortgages, charges and incumbrances upon the whole of such property, assets, rents and revenues of the company, present or future or both, as are described in the said deed; but such rents and revenues shall be subject in the first instance to the payment of any penalty imposed for non-compliance with the requirements of this Act respecting returns to be made under this Act and next to the payment of the working expenditure of the railway.

Mortgages securing bonds, etc.

(2) By the said deed the company may grant to the holders of such bonds, debentures or other securities, or the trustees named in such deed, all and every the powers, rights and remedies granted by this Act in respect of the said bonds, debentures, or other securities, and all other powers, rights and remedies not inconsistent with this Act,



Act, or may restrict the said holders in the exercise of any power, privileges or remedy granted by this Act, as the case may be; and all the powers, rights and remedies so provided for in such mortgage deed shall be valid and binding and available to the said holders in manner and form as therein provided.

Mortgages  
may be  
limited.

(3) The company may except from the operation of any such mortgage deed any assets, property, rents or revenue of the company, and may declare and provide therein that such mortgage shall only apply to and affect certain sections or portions of the railway or property of the company, but where any such exception is made, the company shall in such mortgage deed expressly specify and describe, with sufficient particularity to identify the same, the assets, property, rents or revenue of the company, or the section or portions of the railway, not intended to be included therein or conveyed thereby.

Mortgage to be  
deposited with  
Provincial  
Secretary and  
notice given.

(4) Every such mortgage deed and every assignment thereof or other instrument in any way affecting such mortgage or security shall be deposited in the office of the Board, of which deposit notice shall forthwith be given in the *Ontario Gazette*. Such mortgage deed or other instrument need not be registered under the provisions of any law respecting registration of instruments affecting real or personal property.

Evidence.

(5) A copy of any such deed or instrument so deposited, certified to be a true copy by the Secretary, shall be received as *prima facie* evidence of the original in all courts without proof of the signature of such official.

Bonds, etc.,  
how ranked.

45. The bonds, debentures, or other securities, hereby authorized to be issued, shall be taken and considered to be the first preferential claim and charge upon the company, and the franchise, undertaking, tolls and income, rents and revenues, and real and personal property thereof, at any time acquired, save and except as hereinbefore provided.

Bondholders,  
etc., to be  
Mortgagees.

46. Each holder of the said bonds, debentures or other securities, shall be deemed to be a mortgagee or incumbrancer upon the said securities *pro rata* with all the other holders, and no proceedings authorized by law or by this Act shall be taken to enforce payment of the said bonds, debentures or other securities or of the interest thereon except through the trustee or trustees appointed by or under such mortgage deed.

Rights of  
holders of  
bonds, etc.,  
upon default  
in payment.

47.—(1) If the company makes default in paying the principal or interest on any of the bonds, debentures or other securities hereby authorized, at the time when the  
same

same, by the terms of the bond, debenture or other security, becomes due and payable, then at the next annual general meeting of the company, and at all subsequent meetings, all holders of bonds, debentures or other securities so being and remaining in default shall, in respect thereof, have and possess the same rights and privileges and qualifications for being elected directors and for voting at general meetings, as would attach to them as shareholders if they held fully paid up shares of the company to a corresponding amount.

(2) Each such holder of bonds, debentures or other securities shall, for the purpose of voting at any such meeting, be deemed to be a shareholder and shall be entitled to as many votes as if he held shares in the company on which all calls had been paid, equal at a par valuation, to the amount of such bonds, debentures or other securities so held by him, and may vote by proxy in like manner and to the same extent as a shareholder, but no person who is not himself a bondholder or shareholder in the company shall be qualified to be appointed a proxy.

Right of  
bondholder,  
etc., to vote  
at meetings.

(3) The rights given by this section shall not be exercised by any such holder unless it is so provided by the mortgage deed, nor unless the bond, debenture or other security, in respect of which he claims to exercise such rights has been registered in his name, in the same manner as the shares of the company are registered at least ten days before he attempts to exercise the right of voting thereon; and the company shall be bound on demand to register such bonds, debentures or other securities, and thereafter any transfers thereof, in the same manner as shares or transfers of shares.

When right  
of voting  
may be  
exercised.

(4) The exercise of the rights given by this section shall not take away, limit or restrain any other of the rights or remedies to which the holders of the said bonds, debentures or other securities are entitled under the provisions of such mortgage deed.

Other rights  
under  
mortgage deed  
preserved.

48. All bonds, debentures or other securities hereby authorized may be made payable to bearer, and shall in that case be transferable by delivery, until registration thereof as hereinbefore provided, and while so registered they shall be transferable by written transfers, registered in the same manner as in the case of the transfer of shares.

Bonds, etc.,  
mode of  
transfer of.

49. The company may, for the purposes of the undertaking, borrow money by overdraft or upon promissory note, warehouse receipt, bill of exchange or otherwise upon the credit of the company and become party to promissory notes and bills of exchange; and every such note or bill made, drawn, accepted or endorsed, by the president

Power to  
borrow money  
by overdraft,  
etc

or

No seal  
necessary.

Notes not to  
be payable  
to bearer.

Application  
of ss. 6-49  
to street  
railway  
companies.

or vice-president of the company, or other officer authorized by the by-laws of the company, and countersigned by the secretary of the company, shall be binding on the company; and every such note or bill of exchange so made, drawn, accepted or endorsed shall be presumed to have been made, drawn, accepted or endorsed with proper authority, until the contrary is shown; and in no case shall it be necessary to have the seal of the company affixed to such promissory note or bill of exchange, nor shall the president or vice-president or secretary or other officer of the company, so authorized be individually responsible for the same, unless such promissory note or bill of exchange has been issued without proper authority; but nothing in this section shall be construed to authorize the company to issue any note or bill payable to bearer, or intended to be circulated as money or as the note or bill of a bank.

50. The sections relating to "Organization of the company," being sections numbers 6 to 49 inclusive, shall apply to street railway companies.

#### POWERS.

Powers:

51. Subject to the provisions of this Act and the special Act the company shall have power and authority—

(1) To survey, lay out, construct, complete, equip and maintain a railway to be operated by steam or a railway or street railway to be operated by electricity, with double or single tracks;

To receive  
grants of  
land, etc.;

(2) To receive, take and hold all voluntary grants and donations of land or other property or any bonus of money or debenture or other benefit of any sort made to it, to aid in the construction, maintenance and accommodation of the railway, but the same shall be held and used for the purpose of such grants or donations only;

Purchase  
land;

(3) To purchase, take and hold of any person any land or other property necessary for the construction, maintenance, accommodation and use of the railway, and also to alienate, sell or dispose of the same so soon as, for any reason, it has become not necessary for the purposes of the company.

And across or  
along streams,  
etc.

(4) To construct, maintain and work the railway across along or upon any stream of water, water course, canal or highway which it intersects or touches; but the stream, water course, highway, canal or railway so intersected or touched, shall be restored by the Company to its former state, or to such state as not to impair its usefulness; but this shall not authorize the obstruction of the navigation of any navigable water;

(5)



(5) To purchase land for and erect power-houses, warehouses, elevators, docks, stations, workshops, and offices and to sell and convey such land as may be found superfluous for any such purpose, and to purchase and acquire stationary or locomotive engines, motors, carriages, waggons and other machinery and contrivances necessary for the working of the railway and the accommodation and use of the passengers, freight and business of the railway; and to hold as part of the property of the said company as many steam or other vessels as the directors of the company may deem requisite from time to time to facilitate the carriage of passengers, freight and other traffic in connection with the railway;

Warehouses,  
docks, etc.

(6) To make branch railways, if required and provided for by the special Act, and to manage the same, and for that purpose to exercise all the powers, privileges and authorities necessary therefor, in as full and ample a manner as for the railway;

Branch rail-  
ways;

(7) To take, transport, carry and convey persons and goods on the railway, to regulate the time and manner in which the same shall be transported, and the tolls and compensation to be paid therefor, and to receive such tolls and compensation;

Convey per-  
sons and goods  
on railway;

(8) To enter into and upon the lands of any corporation or person whatsoever lying in the intended route or line of the railway; and, with the consent of the Lieutenant-Governor in Council in that behalf, into and upon any lands of His Majesty the property of this Province;

Enter upon  
lands, etc.;

(9) To make surveys, examinations, or other necessary arrangements on such lands necessary for fixing the site of the railway, and to set out and ascertain such parts of the lands as are necessary and proper for the railway;

Make survey  
of lands;

(10) To fell or remove any trees standing in any woods, lands or forests, where the railway passes, to the distance of six rods from either side thereof. The company shall make full compensation to the owner of any tree so cut down and the amount of such compensation shall on the application of the owner be determined by the Board;

Remove trees

(11) To make or construct upon, across, under or over any railway, tramway, river, stream, watercourse, canal, or highway, which it intersects or touches, temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings and fences;

Construct  
embankments,  
bridges, drains  
fences, etc.

(12) To divert, or alter, as well temporarily as permanently, the course of any such river, stream, watercourse, or highway, or raise or sink the level thereof, in order the more conveniently to carry the same over, under or by the side of the railway;

Divert high-  
ways and  
waterways.

Construct drains.

(13) To make drains or conduits into, through or under any lands adjoining the railway, for the purpose of conveying water from or to the railway;

Divert drains, pipes, and wires.

(14) With consent of the Board after notice to any person interested, to divert or alter the position of any water-pipe, gas-pipe, sewer or drain, or any telegraph, telephone, or electric lines, wires or poles;

Alter and substitute other works.

(15) With consent of the Board after notice to any person interested, from time to time to alter, repair or discontinue the before-mentioned works, or any of them, and substitute others in their stead;

Unite with other railways;

(16) To cross, intersect, join and unite the railway with any other railway at any point on its route, and upon the lands of such other railway, with the necessary conveniences for the purposes of such connection; and the owners of both railways may unite in forming such intersection, and grant the facilities therefor; and the amount of compensation to be made therefor, the point and manner of such crossing and connection, shall be determined by the Board as provided by this Act;

Other necessary acts.

(17) To do all other acts necessary for the construction, maintenance and operation of the railway in pursuance of and according to the meaning and intent of this Act, and of the special Act.

Application of last preceding two subsections.

52. The provisions for the ascertainment of compensation contained in subsection 16 of section 51 of this Act shall not extend or apply to any railway incorporated under an Act of the Legislature of Ontario, in any case in which it is proposed that such railway shall cross, intersect, join, or unite with, or be crossed, intersected, joined or united with a railway under the legislative control of Canada.

Compensation for damage.

53. The company shall, in the exercise of the powers by this or the Special Act granted, do as little damage as possible, and shall make full compensation, in the manner herein or in the Special Act provided, to all parties interested, for all damage by them sustained by reason of the exercise of such powers.

Occupy public lands, beaches, etc.

54.—(1) The railway company shall not take possession of, use or occupy any lands belonging to the Province, without the consent of the Lieutenant-Governor in Council; but with such consent such company may take and appropriate for the use of their railway and works, but not alienate, so much of the wild lands of the Province lying on the route of the railway as have not been granted or sold, and as may be necessary for the railway, as also so much of the public beach or of the land covered with the waters of any

any lake, river, stream or canal, or of their respective beds. as is necessary for making and completing and using their said railway and works;

(2) The extent of the public beach or of the land covered with water of any river or lake in the Province of Ontario taken for the railway shall not exceed the quantity limited in section 60 of this Act.

55. A company which desires at any time to change the location of its line of railway in any particular part for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting such line of railway, or for any other purpose of public advantage, may, with the leave of the Board, make such change; and all the clauses of this Act shall refer as fully to the part of any such line of railway so at any time changed or proposed to be changed as to the original line; but no railway company shall have any right to extend its line of railway beyond the termini mentioned in the special Act.

Changes may be made in the line of a railway at any time for certain purposes.

### *Telegraph and Telephone Lines.*

56.—(1) Except as provided in subsections 3 and 4 of this section the company may construct and operate an electric telegraph line and a telephone line throughout and along the whole line of railway, and the branches thereof, or any part of the said railway or branches, and for the purpose of constructing, working and protecting the said telegraph and telephone lines, the powers conferred upon telegraph companies by *The Act respecting Telegraph Companies*, being chapter 192 of the Revised Statutes of Ontario, 1897, are hereby conferred upon the company; provided that no poles shall be erected in the construction of either of the said lines in or through any city, town or incorporated village, without an agreement with the council of such city, town or village being first obtained by the company; provided, also, that such telegraph and telephone lines shall be used exclusively for the purposes of the business of the company. Provided also that in case the parties are unable to agree, the terms and conditions upon which such poles may be erected shall be determined by the Board.

Telephone and telegraph lines

Proviso.

Proviso.

(2) Whenever any municipal corporation or person has authority to construct, operate and maintain a telephonic system in any district, and is desirous of obtaining telephonic connection or communication with or within any station or premises of the company, in such district, and cannot agree with the company with respect thereto, such municipal corporation or person may apply to the Board for leave therefor, and the Board may order the company to provide for such connection or communication upon such terms as to compensation as the Board deems just and expedient, and may

Municipal telephone systems, connections with.



may order and direct how, when, where, by whom and upon what terms and conditions such telephonic connection or communication shall be constructed, operated and maintained.

Wires, etc.,  
across railway.

(3) No lines or wires for the conveyance of light, heat, power or electricity, shall be erected, placed or maintained across the railway without leave of the Board.

Plans to be  
submitted to  
Board.

(4) Upon any application for such leave, the applicant shall submit to the Board a plan and profile of the part of the railway proposed to be affected showing the proposed location of such lines and wires and the works contemplated in connection therewith; and the Board may grant such application and may order by whom, how, when, and on what terms and conditions, and under what supervision, such work shall be executed; and upon such order being made such lines and wires may be erected, placed and maintained across the railway subject to and in accordance with such order.

Order by  
Board.

General rules  
and regula-  
tions of Board.

(5) As soon as practicable after its organization the Board shall promulgate rules and regulations and standard plans and specifications to be adhered to in carrying lines of wires to be used for telephone and telegraph purposes across the railway, and no lines of such wires shall thereafter be carried across the railway in any other way or on any other terms without the leave of the Board first obtained, provided the Board may, from time to time, amend or change as to it may seem fit such rules, regulations and standard plans and specifications, but such rules, regulations, plans and specifications and amendments or changes thereto and thereof shall not affect crossings made before their adoption by the Board; provided, further, that in special cases on the application of any person or corporation to be affected by such crossing the Board may order that such crossing shall be made in some other manner than that prescribed by the standard plans and specifications, and by whom and how and when and on what terms and conditions and under what supervision such work shall be executed, and upon such order being made such lines and wires may be erected, placed and maintained across the railway, subject to and in accordance with such order.

Proviso.

### *Interchange of Traffic.*

One Company  
may agree  
with another  
respecting  
traffic.

57.—(1) The directors of any railway company may at any time, and from time to time, make and enter into any agreement or arrangement with any other company, either in this Province or elsewhere, for the regulation and interchange of traffic passing to and from the railways of the said companies, and for the working of the traffic over the said railways respectively, or for either of those objects

objects separately, and for the division and apportionment of tolls, rates and charges in respect of such traffic, and generally in relation to the management and working of the railways, or any of them, or any part thereof, and of any railway in connection therewith, for any term not exceeding twenty-one years, and to provide, either by proxy or otherwise, for the appointment of a joint committee or committees for the better carrying into effect such agreement or arrangement, with such powers and functions as may be considered necessary or expedient, subject to the consent of two-thirds of the shareholders, voting in person or by proxy.

(2) Every railway company shall, according to their respective powers, afford all reasonable facilities to any other railway company for the receiving and forwarding and delivering of traffic upon and from the several railways belonging to or worked by such companies respectively, and for the return of carriages, trucks, and other vehicles; and no such company shall give or continue any preference or advantage to or in favour of any particular company, or any particular description of traffic, in any respect whatsoever, nor shall such company subject any particular company or any particular description of traffic to any prejudice or disadvantage in any respect whatsoever; and every railway company having or working a railway which forms part of a continuous line of railway, or which intersects any other railway or which has a terminus, station or wharf of the one near a terminus, station or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding by the one of such railways, all the traffic arriving by the other, without any unreasonable delay and without any such preference or advantage, or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered in the using of such railway as a continuous line of communication, and so that all reasonable accommodation may at all times, by the means aforesaid, be mutually afforded by and to the said several railway companies.

Railway Companies must afford each other every facility for the forwarding of traffic, with out preference or favour.

(3) If any officer, servant or agent of a railway company, having the superintendence of the traffic at any station or depot thereof, refuses or neglects to receive, convey or deliver at any station or depot of the company for which they may be destined, any passenger, goods or things, brought, conveyed or delivered to him or to such company, for conveyance over or along the railway from that of any other company, intersecting or coming near to such first-mentioned railway, or in any way wilfully contravenes the provisions of the next preceding subsection—such first-mentioned railway company, or such officer, servant or agent, personally, shall, for every such neglect

Penalty on companies or their officers refusing or neglecting to forward traffic, as above required.

How recoverable, and how to be applied.

neglect

neglect or refusal, incur a penalty not exceeding \$50 over and above the actual damages sustained.

(4) In case any company or municipality interested is unable to agree as to the regulation and interchange of traffic or in respect of any other matter in this section provided for, the same shall be determined by the Board.

(5) All complaints made under this section shall be heard and determined by the Board.

(6) This section shall apply to such street railways as may from time to time be determined by the Board.

*Amalgamation and Running Arrangements with other Companies.*

Agreements  
with other  
companies.

58.—(1) The company shall have the power to agree for connection and making running arrangements with any other railway company, the lines of which are approached or crossed by the line or lines of the company, if lawfully empowered to enter into any such agreement, upon terms to be authorized by two-thirds in value of the shareholders at a special general meeting to be held for that purpose, and it shall also be lawful for the company to enter into any agreement or agreements with any such company if lawfully authorized to enter into such an agreement, for the sale or leasing or hiring of the whole or any portion of the railway or the use thereof or for the sale or leasing or hiring any engines, locomotives, motors, carriages, or cars or any of them or of any part thereof or touching any service to be rendered by one company to the other and the compensation therefor, if the arrangements and agreements shall be so authorized by two-thirds in value of the shareholders voting in person or by proxy at a special general meeting to be called for that purpose, and every such agreement shall be valid and binding according to the terms and tenor thereof subject to sub-section 3 of this section, and the company purchasing, leasing or entering into such agreement for using the said railway may and is hereby authorized to work the said railway in the same manner as if incorporated with its own line.

(2) The company may contract and agree with any other railway company the lines of which are approached or crossed by the line or lines of the company if lawfully authorized to enter into such arrangements, for amalgamation with any or either of them, provided that no such contract shall be of any force or validity unless first authorized by resolution passed by vote of the shareholders in person or by proxy representing two-thirds in value of the subscribed capital stock, and on which no call is in default and unpaid at a general meeting specially called for that purpose.



(3) No such agreement for amalgamation, connections, running arrangements, sale, leasing or hiring of the railway or any portion thereof shall be of any force or effect until approved by resolution of the Board, and every such agreement shall be subject to such terms, conditions and regulations, general or special, as the Board may from time to time order.

Agreements to be subject to approval by board.

(4) This section shall apply to such street railways as may from time to time be determined by the Board.

Application to street railways.

#### PLANS AND SURVEYS.

59. Plans and surveys and books of reference shall be made and corrected as follows:

Plans and books of reference.

(1) Surveys and levels shall be taken and made of the lands through which the railway is to pass, together with a map or plan thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then ascertained, and also a book of reference for the railway, in which shall be set forth—

- (a) A general description of the said lands;
- (b) The names of the owners and occupiers thereof, so far as they can be ascertained; and
- (c) Everything necessary for the right understanding of such map or plan.

(2) The map or plan and book of reference shall be examined and if in all respects satisfying the provisions of this Act and the special Act shall be certified by the Board who shall keep one copy thereof on file in the office of the Board.

Certifying map or plan and book of reference.

(3) The company shall also deposit copies thereof, or of such parts thereof as relate to each district or county through which the railway is to pass, duly certified as copies by the Secretary, in the registry offices of such districts or counties respectively.

Registration of map or plan and book of reference.

(4) Any person may resort to such copies, and make extracts or copies thereof, as occasion requires, paying to the Secretary, or to the Registrar, at the rate of ten cents for every hundred words so extracted or copied. Any person feeling aggrieved by the proposed location of the line of railway may within ten days after the deposit of the map or plan and book of reference aforesaid in the registry office of the district or county where the lands are situated, the loca-

Copies.

Appeal against proposed location of line.

tion through which is complained of, apply to the Board, setting forth his objections to the location of the proposed line, and the Board shall if it considers sufficient cause therefor exists, appoint a disinterested engineer, who shall examine the said proposed line, and after hearing the parties he shall confirm or alter the same as may be consistent with the just rights of all parties and of the public. The determination of the engineer approved by the Board shall, within ten days after his appointment, be made and certified, and such certificates shall be filed in the office of the Registrar for the district or county where the lands are situated.

Fees and expenses of engineer.

(5) The said engineer shall be entitled to reasonable fees for each day employed in connection with the said examination and work, together with his actual expenses incurred therein, and the amount shall in the first instance be paid by the person applying for his appointment, but if the proposed route is altered or changed by the engineer, the railway company shall refund to the applicant the amount so paid.

Omissions how remedied.

(6) Any omission, misstatement or erroneous description of such lands or of the owners or occupiers thereof, in a map or plan or book of reference, may on application by any party interested and after giving ten days' notice to the owner of the lands, be corrected by the Board on application made to them for that purpose, and if it appears to them that the omission, misstatement or erroneous description arose from mistake the Board shall certify the same accordingly.

Contents of certificate.

(7) The certificate shall state the particulars of such omission, and the manner thereof, and shall be deposited in the registry office of the district or county respectively in which such lands are situate and kept in such registry office along with the other documents to which they relate; and thereupon the map or plan or book of reference shall be deemed to be corrected according to such certificate; and the company may construct and lay out the railway in accordance with the certificate.

Alterations from original survey.

(8) If any alterations from the original plan or survey are intended to be made in the line or course of the railway, a plan and section in triplicate of such alterations as have been approved of by the Board, on the same scale and containing the same particulars as the original plan and survey, shall be deposited in the same manner as the original plan, and copies or extracts of the plan and section, so far as they relate to the several districts or counties

counties in or through which the alterations have been authorized to be made, shall be deposited in the registry offices of such districts or counties.

(9) All plans, profiles and books of reference required by law to be deposited by the company with the Board, shall be drawn to such scale, with such detail, upon such materials, and of such character, as the Board may, either by general regulation, or, in any case, require or sanction, and shall be certified and signed by the president or vice-president or general manager and also by the engineer of the company; and any book of reference, required to be so deposited, shall be prepared to the satisfaction of the Board. Unless and until such plan, profile and book of reference is so made satisfactory to the Board, the Board may refuse to sanction the same, or to allow the same to be deposited with the Board within the meaning of this Act.

General provisions respecting plans, etc.

Must be signed.

Board may refuse unsatisfactory plans.

(10) In addition to such plans, profiles and books of reference, the company shall, with all reasonable expedition, prepare and deposit with the Board, any other, or further plans, profiles, or books of reference of any portion of the railway, or of any siding, station or works thereof, which the Board may from time to time order or require.

Further plans as Board requires.

(11) The Registrar of Deeds shall receive and retain the copies of the original plans and surveys and books of reference and copies of the plans and sections of alterations, and copies and extracts thereof respectively, and shall permit all persons interested to inspect any of the documents aforesaid, and to make copies and extracts of and from the same, under penalty for default of \$4.

Registrar of Deeds to receive copies of original plan, etc.

(12) A copy of the said maps, plans, profiles and books of reference or portions thereof certified by the Registrar of Deeds or the Secretary shall in all courts be evidence that such original document was so deposited at the time stated and certified, and shall be *prima facie* proof of the original so deposited, and that the same was signed, certified, attested, or otherwise executed, by the persons, by whom, and in the manner in which, the same purports to be signed, certified, attested or executed, as shown or appearing by such certified copy, and in the case of a plan, that such plan is prepared according to a scale, and in manner and form, sanctioned by the Board.

Certified copy of maps, etc., to be taken as evidence.

(13) No deviation of more than one mile from the line of the railway or from the places assigned thereto in the said map or plan and book of reference or plans or sections, shall be made into, through, across, under or over any part

Line not to deviate more than a mile.



part of the lands not shewn in such map or plan and book of reference, or plans or sections, or within one mile of the said line and place, save in such instances as are provided for in the special Act.

Error in the name of a person entered in a book of reference.

(14) The railway may be carried across or upon the lands of any person on the line, or within the distance from such line as aforesaid, although the name of such person has not been entered in the book of reference through error or any other cause, or although some other person is erroneously mentioned as the owner of or entitled to convey, or is interested in such lands.

Map, etc., of railway to be filed in the office of the Board.

(15) A map and profile of the completed railway and of the land taken or obtained for the use thereof, shall, within a reasonable time after completion of the undertaking, be made and filed in the office of the Board and like maps of the parts thereof located in different counties shall be filed in the registry offices for the registry divisions in which such parts are respectively situate.

#### TAKING OF LANDS WITHOUT THE CONSENT OF THE OWNERS.

Extent of land which may be taken.

60. The lands which may be taken without the consent of the owner:—

For right of way.

For the right of way shall not exceed one hundred feet in breadth except in places where the rail level is or is proposed to be, more than five feet above or below the surface of the adjacent lands, when such additional width may be taken as shall suffice to accommodate the slope and side ditches;

For stations, etc.

For stations, depots and yards, with the freight sheds, warehouses, wharves, elevators and other structures for the accommodation of traffic incidental thereto, shall not exceed one mile in length by five hundred feet in breadth, including the width of the right of way.

Corporation, etc., may convey lands.

61.—(1) All corporations and persons whatever, tenants in tail or for life, guardians, executors, administrators, and all other trustees whatsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, *femes covert*, or other persons, seised, possessed of or interested in any lands, may contract for, sell and convey unto the company all or any part thereof.

Limitation of powers in certain cases.

(2) The powers by the preceding sub-section conferred upon rectors in possession of glebe lands, ecclesiastical and other corporations, trustees of land for church and school purposes or either, shall only extend and be exercised

cised with respect to any of such lands actually required for the use and occupation of the company.

62. Any contract, agreement, sale, conveyance and assurance made under the preceding section shall be valid and effectual in law to all intents and purposes whatsoever, and shall vest in the company receiving the same, the fee simple in the lands in such deed described, freed and discharged from all trusts, restrictions and limitations whatsoever, and the corporation or person so conveying, is hereby indemnified for what it or he respectively does by virtue of or in pursuance of this Act.

Effect of sale under preceding section.

63. The company shall not be responsible for the disposition of any purchase money for lands taken by it for its purposes, if paid to the owner of the land or into Court.

Disposition of purchase money.

64. Any contract or agreement for the sale to the company of any lands made by any person authorized by this Act to convey lands, and made before the deposit of the map or plan and book of reference, and before the setting out and ascertaining of the lands required for the railway, shall if duly registered in the proper Registry Office be binding upon subsequent purchasers of such lands at the price agreed upon for the same lands, if they are afterwards so set out and ascertained within one year from the date of the contract or agreement, and although such land may, in the meantime have become the property of a third party; and possession of the land may be taken, and the agreement and price may be dealt with, as if such price had been fixed by an award of arbitrators as hereinafter provided, and the agreement shall be in the place of an award.

Effect of contracts made before deposit of map.

65. All corporations or persons who cannot in common course of law sell or alienate any lands so set out and ascertained, shall agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid for the lands; and if the amount of the rent is not fixed by voluntary agreement or compromise, it shall be fixed and all proceedings shall be regulated in the manner herein prescribed; and for the payment of the said annual rent, and every other annual rent agreed upon or ascertained, and to be paid for the purchase of any lands, or for any part of the purchase money of any lands, which the vendor agrees to leave unpaid, the railway and the tolls thereon shall be liable and chargeable in preference to all other claims and demands thereon whatsoever, the deed creating such charge and liability being duly registered in the registry office of the proper registration district.

Corporations or persons, who cannot sell, may agree upon a fixed rent.

66. After ten days from the deposit of the map or plan and book of reference, and from notice thereof in

or After one month's notice of deposit of

map, etc., application to the owner of lands.

at least one newspaper, if there is any, published in each of the counties through which the railway is intended to pass, application may be made to the owners of lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the railway, and thereupon, agreements and contracts may be made with such owners touching the said lands, or the compensation to be paid for the same, or for the damages, or as to the mode in which such compensation shall be ascertained, as may seem expedient to both parties, and in case of disagreement between them shall be settled as in section 68 mentioned.

Deposit, etc., to be general notice.

67. The deposit of a map or plan and book of reference, and the notice of the deposit, shall be deemed a general notice to all such persons as aforesaid of the lands which will be required for the railway and works.

Notice to opposite party.

68.—(1) A notice shall be served upon the owner which shall contain:—

- (a) A description of the lands to be taken, or of the powers intended to be exercised with regard to any lands (describing them):
- (b) A declaration of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or for such damages; and
- (c) The name of a person to be appointed as the arbitrator of the company, if the offer be not accepted.

Certificate of O.L.S. to accompany notice.

(2) The notice shall be accompanied by the certificate of an Ontario Land Surveyor, disinterested in the matter and not being the arbitrator named in the notice to the following effect:—

- (a) That the land (if the notice relates to the taking of land,) shewn on the map or plan, is required for the railway, (or is within the limits of deviation by this Act allowed;)
- (b) That he knows the land, or the amount of damage likely to arise from the exercise of the powers; and
- (c) That the sum so offered is, in his opinion, a fair compensation for the land, and for the damages as aforesaid.

If the party is absent or unknown.

(3) If the owner is absent from the district or county in which the lands lie, or is unknown, then upon application to a Judge of the County Court of the County in which the lands lie, accompanied by such certificate as aforesaid, and by an affidavit of some officer of the company that such owner is so absent, or that, after diligent inquiry, the owner

on



on whom the notice ought to be served cannot be ascertained, the Judge shall order a notice as aforesaid, but without such certificate, to be inserted three times in the course of one month in some newspaper published in the said county.

(4) Where a Judge of a County Court is interested in lands taken or required within the county in which he is a Judge, by any company, for railway purposes, a Judge of the High Court shall, on application of the company, exercise in such case all the powers given to a Judge of a County Court by the provisions of this section in cases in which such Judge of a County Court is not interested.

Provision when the County Judge is interested in lands required for any railway.

(5) If within ten days after the service of the notice, or within one month after the first publication thereof as aforesaid, the person served does not notify the company of his acceptance of the sum offered by it, or notify it of the name of a person whom he appoints as arbitrator, the Judge shall, on the application of the company, appoint an Ontario Land Surveyor, to be sole arbitrator for determining the compensation to be paid as aforesaid.

Party not accepting the company's offer, and not appointing an arbitrator.

(6) If the opposite party within the time aforesaid, notifies the company of the name of his arbitrator, the two arbitrators shall jointly appoint a third, or if they cannot agree upon a third, the Judge shall, on the application of the party or of the company (previous notice of at least one clear day having been given to the other party), appoint a third arbitrator.

Appointment of arbitrator by opposite party. Third arbitrator.

(7) If lands have been entered on and taken by the company with or without the license of the person in possession thereof and without any agreement as to the compensation to be paid therefor or if the lands, though not taken, are injuriously affected by or through the construction of the railway, any owner or person interested in such lands shall have the right to commence proceedings to ascertain the compensation to which he is entitled in respect of the lands so taken or injuriously affected, by giving to the company notice in writing of the name of a person to be appointed as his arbitrator, the description of the lands taken or injuriously affected, and the amount of compensation or damages claimed by him, and thereupon like proceedings shall be taken to ascertain such compensation as are prescribed in cases where the company commences proceedings.

Party other than company commencing proceedings to determine compensation.

(8) The arbitrators, besides awarding to the owner the amount which they find to be the value of the land, shall state what they find to be the total amount to be paid to compensate the owner or for damages.

Stating amount found payable in award.

(9) The arbitrators, or any two of them, or the sole arbitrator, being sworn before a Justice of the Peace or commissioner empowered to take affidavits, faithfully

Duties of arbitrators.

fully and impartially to perform the duties of their office, shall proceed to ascertain the compensation in such a way as they or he, or a majority of them, deem best; but no award shall be made or any official act be done by the majority, except at a meeting held at a time and place of which the other arbitrator has had at least one clear day's notice, or to which some meeting at which the third arbitrator was present, had been adjourned; and no notice to either of the parties shall be necessary, but each party shall be held sufficiently notified through the arbitrator appointed by him, or whose appointment he required.

Costs, in  
discretion of  
arbitrators.

(10) In any arbitration under this Act the costs of the arbitration shall be in the discretion of the arbitrator or arbitrators and if they are to be borne by the opposite party to the company may be deducted from the compensation awarded, and in any case they may if not agreed upon be fixed by the arbitrator or arbitrators or taxed by one of the taxing officers of the Supreme Court of Judicature.

Arbitrators  
may examine  
on oath.

(11) The arbitrators, or a majority of them, or the sole arbitrator, may examine on oath or solemn affirmation the parties, or such witnesses as appear before him or them, and may administer such oath or affirmation.

Parties to  
arbitrations  
may obtain  
subpœnas.

(12) Any party to an arbitration under this Act may, without leave or order, obtain and issue out of the High Court, upon *præcipe*, setting forth the names of the witnesses to be subpœnaed, the names of the arbitrators, and the place and time of meeting, a subpœna commanding the attendance for examination of any witness, and also the production of any document to or before the arbitrator or arbitrators, and at the time and place mentioned in such subpœna; and the disobedience of such subpœna shall be deemed a contempt of court, and shall be punishable in the same manner and to the like extent as in the case of subpœnas issued in a civil case.

Disobedience  
thereto to be  
contempt of  
Court.

Fees and con-  
duct money.

(13) The like fees shall be payable for such subpœnas as in the case of subpœnas issued in civil cases, and the witnesses shall be entitled to the like conduct money.

Evidence to be  
taken in  
writing.

(14) The evidence shall be taken down in writing, and after making their award the arbitrators shall forthwith deliver or transmit by registered letter, at the request of either party in writing the depositions, together with the exhibits referred to therein, and all papers connected with the reference, except the award, to the central office of the High Court of Justice with the proper stamps (which shall be furnished by the party making the request) to be filed with the Records of the Court.

Depositions  
transmitted to  
central office.

Time within  
which award  
must be made.

(15) The Judge by whom a third arbitrator or sole arbitrator is appointed, shall, at the same time, fix a day on or before which the award shall be made.

(16) If the arbitrator appointed by the Judge, or if any arbitrator appointed by the parties, dies before the award has been made, or is disqualified, or refuses or fails to act within a reasonable time, or refuses or neglects to make his award within the time fixed, then, in the case of the arbitrator appointed by the Judge, upon the application of either party, such Judge being satisfied by affidavit or otherwise of such death, disqualification, refusal or failure, may appoint another arbitrator in his place, and the company and party respectively may each appoint an arbitrator in the place of his arbitrator deceased or not acting as aforesaid, but no recommencement or repetition of prior proceedings shall be required in any case, provided that the proceedings may be commenced *de novo* if the majority of the arbitrators so order.

Arbitrator  
dying, etc.

(17) Any notice given or proceedings commenced may prior to the making of the award be abandoned and new notice given, with regard to the same or other lands, to the same or any other party, but in such case, the liability to the party first notified for all damages or costs by him incurred in consequence of the giving of the first notice shall continue; provided, however, that the right to abandon proceedings shall not be exercised more than once.

When proceed-  
ings may be  
abandoned.

(18) No award made as aforesaid shall be invalidated by reason of any want of form or other technical objection, if the requirements of this Act have been complied with, and if the award states clearly the sum awarded, and the lands or other property, right or thing for which such sum is to be the compensation; nor shall it be necessary that the person or persons, to whom the sum is to be paid, be named in the award.

Awards not  
voided for  
want of form.

(19) Any party to the arbitration may, within one month, after receiving a written notice from one of the arbitrators of the making of the award, appeal therefrom upon any question of law or fact to a Judge of the High Court and upon the hearing of the appeal the Judge shall, if the same is a question of fact, decide the same upon the evidence, as in a case of original jurisdiction.

Parties to ar-  
bitration may  
appeal to a  
Judge of the  
High Court.

(20) Upon such appeal the practice and proceedings shall be, as nearly as may be, the same as upon an appeal from an Official Referee under *The Arbitration Act*, subject to any General Rules or Orders to be from time to time made under *The Judicature Act*.

Practice and  
proceedings  
upon appeal.

(21) The right of appeal hereby given shall not affect the existing law or practice as to setting aside awards.

Existing prac-  
tice as to set-  
ting aside  
awards con-  
tinued.

(22) Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon as aforesaid to the person entitled to receive the same, or upon the deposit of the amount of such compensation in the manner hereinafter mentioned, the award or agreement shall vest in the

Possession  
may be taken  
on payment or  
tender, etc., of  
sum awarded.

the



the company the power forthwith to take possession of the lands, or to exercise the right, or to do the thing for which such compensation or annual rent has been awarded or agreed upon; and if any resistance or forcible opposition is made by any person to their so doing, the Judge of the county in which the lands lie, or any Judge of the High Court of Justice may, on proof to his satisfaction of such award or agreement, issue his warrant to the sheriff of the district or county, as he may deem most suitable, to put the company in possession, and to put down such resistance or opposition, which the sheriff, taking with him sufficient assistance, shall accordingly do.

When warrant  
of possession  
may issue  
before award.

(23) The warrant may also be granted by such Judge without the award or agreement, on affidavit to his satisfaction that the immediate possession of the lands or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the railway with which the company is ready forthwith to proceed.

Procedure  
upon applica-  
tion for such  
warrant.

(24) The Judge shall not grant any warrant under the next preceding subsection, unless ten days' previous notice of the time and place when and where the application for such warrant is to be made has been served upon the owner of the land or the person empowered to convey the land, or interested in the land sought to be taken, or which may suffer damage from the taking of materials sought to be taken, or the exercise of the powers sought to be exercised, or the doing of the thing sought to be done, by the company; and unless the company gives security to his satisfaction by payment into court of a sum in his estimation sufficient to cover the probable compensation and costs of the arbitration, and not less than double the amount mentioned in the notice served under subsection (1) of this section.

Deposit of  
compensation.

Costs of  
application.

(25) The costs of any such application to, and of any such hearing before, the judge, shall be in the discretion of the Judge, and no part of such deposit or of any interest thereon shall be repaid, or paid to such company, or paid to such owner or party, without an order from the judge, which he may make in accordance with the terms of the award.

When com-  
pensation to  
stand in the  
place of the  
land.

(26) The compensation for any lands which may be taken without the consent of the owner shall stand in the stead of such lands; and any claim to or incumbrance upon the said lands, or any portion thereof, shall, as against the company, be converted into a claim to the compensation, or to a like proportion thereof and it shall be responsible accordingly whenever it has paid the compensation, or any part thereof, to a party not entitled to receive the same, saving always its recourse against such party.

(27) If the company has reason to fear any claim or incumbrance, or if any person to whom compensation or annual rent, or any part thereof is payable, refuses to execute the proper conveyance and guarantee, or if the person entitled to claim the same cannot be found, or is unknown to the company, or if for any other reason the company deems it advisable, the company may, by leave of a Judge of the High Court of Justice, pay the compensation into the office of the Accountant of the Supreme Court of Judicature, together with interest thereon for six months, and with such further sum if such Judge so directs as may, in the opinion of such Judge, be sufficient to cover the expenses of advertising and the costs that may be incurred in consequence of such payment into Court, and may deliver to the said Accountant an authentic copy of the conveyance, or of the award or agreement if there be no conveyance, and such award or agreement shall thereafter be deemed to be the title of the company to the land therein mentioned.

As to incumbrances, etc., upon lands, etc., purchased or taken.

(28) A notice, in such form and for such time as a Judge of the High Court may order shall be inserted in some newspaper if there is any published in the county in which the lands are situate, which shall state that the title of the company, that is, the conveyance, agreement or award, is under this Act, and shall call upon all persons entitled to the land, or to any part thereof, or representing any persons so entitled, to file their claims to the compensation or any part thereof, and all such claims shall be received and adjudicated upon by the Court, and the said proceedings shall forever bar all claims to the lands, or any part thereof, including dower, as well as all mortgages and encumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested as may be proper.

What notice to be published.

(29) The costs of such proceedings shall be paid by such party as the Court may order.

By whom costs to be paid.

(30) If such order of distribution as aforesaid is obtained in less than six months from the payment of the compensation into Court, the Court shall direct a proportionate part of the interest to be returned to the company; and if from any error, fault or neglect of the company, it is not obtained until after the six months have expired, the Court shall order the company to pay to the proper claimants the interest for such further period as may be right.

When interest to be returned to, or paid by the company.

#### *Gravel Pits, etc.*

69.—(1) When stone, gravel, earth, sand or water is or are required for the construction or maintenance of the railway or any part thereof, the company may in case it cannot

Acquiring materials for construction.

cannot agree with the owner of the lands on which the same are situate for the purchase thereof, cause an Ontario land surveyor to make a map and description of the property so required, and it shall serve a copy thereof, with its notice of arbitration, as in case of acquiring the roadway, and the notice of arbitration, the award and the tender of compensation shall have the same effect as in case of arbitration for the roadway, and all the provisions of this Act, as to the service of the said notice, arbitration, compensation, deeds, payment of money into court, the right to sell, the right to convey, and the parties from whom the land may be taken, or who may sell, shall apply to the subject matter of this section, as to the obtaining materials as aforesaid, and such proceedings may be had by the company either for the right to the fee simple in the land from which said materials shall be taken, or for the right to take materials for any time it shall think necessary, the notice of arbitration, in case arbitration is resorted to, to state the interest required.

Siding to  
gravel pit.

(2) When said gravel, stone, earth, sand or water shall be taken under the preceding subsection of this section at a distance from the line of the railway the company may lay down the necessary sidings and tracks over any lands which may intervene between the railway and the lands on which said materials shall be found, whatever the distance may be; and all the provisions of this Act, except such as relate to filing plans and publication of notice, shall apply and may be used and exercised to obtain the right of way from the railway to the land on which such materials are situated, and such right may be so acquired for a term of years or permanently as the company may think proper, and the powers in this and the preceding section may at all times be exercised and used in all respects after the railway is constructed for the purpose of repairing and maintaining the said railway.

#### *Switches and Sidings to Industries.*

Expropriation  
with consent  
of municipi-  
pality in  
certain cases.

70.—(1) In case the council of a municipality by by-law declares that it is desirable and expedient that an elevator or manufactory or other industry or business should have a siding or switch from any railway to the premises of such elevator, manufactory, industry or business, and that the company should have powers of expropriation for the purpose of securing, within the limits of the municipality, the necessary right of way for that purpose as set forth in the by-law, and if the Board certifies that the building of the proposed siding or switch across the lands as set forth in the by-law will be for the advantage or convenience of the public, the company, upon the registration by the council of the by-law and certificate in the proper Registry Office, shall in respect



respect of the said lands, possess the powers of expropriation conferred by this Act. Provided, however, that no such by-law shall be passed by the council of any municipality until all owners of lands, across which the proposed siding or switch is to run, have had at least one week's previous notice in writing of the time when such by-law is to be considered by the said council.

Proviso.

(2) The tracks of the sidings or switches constructed or laid by the company under this section shall not be used for any purpose other than for the purposes mentioned, except by leave of the Board and subject to such terms and conditions as the Board sees fit to impose.

Tracks, etc., not to be used for other purposes.

### *Purchase of More Land than Necessary.*

71. Whenever the company can purchase a larger quantity of land from any particular owner at a more reasonable price, on the average, or on more advantageous terms, than it could obtain the portion thereof which it may take from him without his consent, it may purchase such larger quantity, and upon such purchase may sell and dispose of any part thereof which may be unnecessary for the undertaking.

When company may purchase whole of any lot of land traversed.

### *Snow Fences, Etc.*

72. Every company may, on and after the first day of November, in each year, enter into and upon any lands of His Majesty, or of any person, lying along the route or line of the railway, and may erect and maintain snow fences thereon, subject to the payment of such damages, if any, as are thereafter established, in the manner provided by this Act, to have been actually suffered; but every snow fence so erected shall be removed on or before the first day of April then next following.

Erection of snow fences.

Compensation.

Removal.

### *Use of Adjacent Lands During Construction.*

73. The company, either for the purpose of constructing or repairing its railway or for the purpose of carrying out the requirements of the Board, or in the exercise of the powers conferred upon it by the Board, may enter upon any land which is not more than six hundred feet distant from the centre of the located line of the railway, and may occupy the said land as long as is necessary for the purposes aforesaid; and all the provisions of law at any time applicable to the taking of land by the company, and its valuation, and the compensation therefor, shall apply to the case of any land so required; but before entering upon any land for the purposes aforesaid, the company shall, in case the consent of the owner is not obtained

Use of lands adjoining right of way during construction or repair of railway.

Deposit where consent of owner not obtained.

tained, pay into Court, such sum, with interest thereon for six months, as is, after two clear days' notice to the owner of the land, or to the person empowered to convey the same, or interested therein, fixed by a judge of the High Court. Such deposit shall be retained to answer any compensation which may be awarded the person entitled thereto, and may upon order of a judge of such court, be paid out to such person in satisfaction *pro tanto* of such award; the surplus, if any, thereafter remaining shall by order of the judge, be repaid to the company, and any deficiency therein to satisfy such award shall be forthwith paid by the company to the person entitled to compensation under such award.

Compensation.

*Proceedings where more ample space is required.*

Where more ample space required.

74.—(1) Should the company require, at any point on the railway, more ample space than it then possesses or may take under this Act, for the convenient accommodation of the public, or the traffic on its railway, or for protection against snowdrifts, it may apply to the Board for authority to take the same, for such purposes, without the consent of the owner.

Procedure thereon.

(2) The company shall give ten day's notice of such application to the owner or possessor of such lands, and shall furnish copies of such notices, with affidavits of the service thereof, to the Board upon such application.

Notice.

What application must include.

(3) The company, upon such application, shall also furnish to the Board, in duplicate,—

(a) A plan, profile and book of reference of the portion of the railway affected, showing the additional lands required, and certified as provided in section 59 of this Act.

(b) An application, in writing, for authority to take such lands, certified and signed by any of the officers mentioned in subsection 9 of section 59 of this Act, referring to the plan, profile and book of reference, specifying definitely and in detail the purposes for which each portion of the lands are required, and the necessity for the same, and showing that no other land suitable for such purposes can be acquired at such place on reasonable terms and with less injury to private rights.

Authority from Board.

(4) After the time stated in the aforementioned notices, and the hearing of such parties interested as may appear, the Board may, in its discretion, and upon such terms and conditions as the Board deems expedient, authorize in writing the taking, for the said purposes, of the whole or any portion of the lands applied for. Such authority shall be executed in duplicate, one to be filed with the plan, profile, book of reference, application and notices with

Deposit with Board.

with the Board, and the other, with the duplicate plan, profile, book of reference and application, to be delivered to the company.

(5) Such duplicate authority, plan, profile, book of reference and application, or copies thereof certified as such by the Secretary shall be deposited with the registrars of deeds of the districts or counties, respectively, in which such lands are situate.

Deposit with  
registrar of  
deeds.

(6) All the provisions of this Act applicable to the taking of lands for the right of way, or main line, of the railway without the consent of the owner of such lands, shall apply to the lands authorized to be taken under this section.

Sections of  
Act to apply.  
Exceptions.

#### CONSTRUCTION OF THE RAILWAY.

##### *Gauge.*

75. The tracks of every railway and street railway, the construction of which railway or street railway shall be commenced after the coming into force of this Act, shall be of the standard gauge of four feet eight and one-half inches, unless the Board upon the application of the railway or street railway company about to commence construction as aforesaid shall otherwise order.

Gauge.

##### *Trains, Cars and Appliances.*

76.—(1) In all trains there shall be an apparatus or appliance to provide immediate communication between the conductor while in any car of any passenger train, and the engine driver or motor man.

Communica-  
tion with  
engine driver.

(2) All brakes shall be of such design and construction as to check at will the speed of the train, and bring the same safely to a standstill, as expeditiously as possible, and on all the trains carrying passengers the system of brakes shall comply with the following requirements:—

Brakes.

On trains  
carrying  
passengers  
the brakes  
must—

(a) The brakes shall be continuous and must be instantaneous in action, and capable of being applied at will by the motor man, engine driver, conductor or brakeman;

Be continuous  
and instan-  
taneous.

(b) The brake must be self-applying in the event of any failure in the continuity of its action;

Be self-apply-  
ing in case of  
accident.

(3) All couplers shall be such as to securely couple and connect the cars composing the train, and to attach the engine or locomotive to such train, automatically by impact, and which can be uncoupled without the necessity of men going in between the ends of the cars;

Couplers.

(4)



Box freight cars to be provided with ladders, etc.

(4) All box freight cars of the company built after the passing of this Act, shall be equipped with the following attachments for the security of railway employees:—

(a) Outside ladders, on two of the diagonally opposite ends and sides of each car, projecting below the frame of the car, with one step or rung of the ladder below the frame, the ladders being placed close to the ends and sides to which they are attached;

(b) Hand grips placed anglewise over the ladders of each box car and so arranged as to assist persons in climbing on the roof by means of the ladder.

Cars to be equipped with side attachments before 1907.

(5) All cars built prior to the passing of this Act shall be fitted with such attachments before the first day of January, 1907, provided that, if there is at any time any other improved side attachment which, in the opinion of the Board, is better calculated to promote the safety of the train hands, then the Board may require any of such cars not already fitted with the side attachments first mentioned, to be fitted with the said improved attachment.

Height of draw-bars.

(6) Every company shall adopt and use upon all its rolling stock such height of draw-bars as the Board determines in accordance with any standard from time to time adopted by competent railway authorities.

Safeguards against fire in cars.

(7) Every passenger, baggage, mail and express car, which is owned or regularly used on any railway in this Province, in which heating apparatus may be placed, shall be provided with such safeguards against fire as the board in writing shall from time to time approve.

Train equipment to be provided

(8) Every company shall provide and cause to be used on all trains such modern and efficient locomotives, motors, cars and carriages, apparatus, appliances and means as may be required or ordered by the Board, and the company shall alter such locomotives, motors, cars and carriages, apparatus, appliances and means or renew the same from time to time as the Board may order.

Penalty for non-compliance.

(9) Every company which fails to comply with any of the provisions of this section, shall forfeit to His Majesty, a sum not exceeding two hundred dollars, for every day during which such default continues, and shall, as well, be liable to pay to all such persons as are injured by reason of the non-compliance with these provisions, or to their representatives, such damages as they are legally entitled to, notwithstanding any agreement to the contrary with regard to any such person: Provided however that no proceedings shall be instituted to enforce or recover any forfeiture to His Majesty hereunder without the consent of the Board first obtained.

Damages

Agreements to contrary invalid.

Consent to prosecution.

77. Every locomotive, engine and electric locomotive shall be furnished with a bell of at least thirty pounds weight or with a steam or air whistle. Locomotives to have bells or whistles.

78. Every car which contains a motor or which runs at the head of a train shall be furnished with a gong, to be approved by regulation of the Board, or with an air whistle. Gongs and whistles.

79.—(1) All cars in use for the transportation of passengers in November, December, January, February, March and April in each year, which, while in motion, require the constant care or service of a motorman upon the platforms of the car or upon one of them, shall have their platforms so enclosed as to protect the motormen from exposure to wind and weather in such manner as the Board shall approve. Protection of conductors and motormen.

(2) All companies operating their cars without rear end vestibules shall allow the conductors employed on such cars to stand inside the cars so far as is consistent with the proper performance of their duties during the said period.

(3) Every motor car built after the passing of this Act designed for carrying passengers upon a railway operated by electricity shall be so constructed that the motorman having the control of the motive power shall be stationed in a compartment into which no person shall be admitted save the officers or employees of the company on duty, and no person other than such officers or employees shall be permitted to occupy any portion of such compartment or vestibule.

(4) Any company offending against the provisions of this section shall be liable to a penalty of one hundred dollars for each offence and any person offending against the provisions of this section is liable on summary conviction to a fine of not less than two dollars nor more than fifty dollars or imprisonment for not more than one month with or without hard labour or both.

(5) This section shall only apply to railways operated by electricity, and street railways.

80. The Board may by order applicable either generally or in one or more particular cases, alter or modify, any of the requirements of sections 76 to 79 hereof. Power to modify requirements of sections 76-79.

81. Railways operated by electricity shall stop at such places in addition to those fixed by the by-laws or regulations of the company as the Board may from time to time by resolution direct and order. Stopping places.

Open cars.

82.—(1) Open or summer cars, constructed after the first day of January, 1907, for use upon a railway operated by electricity or upon a street railway shall be so arranged or constructed that the seats for passengers will face the front of the car when in motion, and an aisle sufficiently wide to allow the passage of the conductor shall be provided in every such car.

Side steps.

(2) The side steps on such cars shall be so constructed, if practicable, that passengers will be prevented from standing upon the same while the car is in motion.

A portion of section.

(3) This section shall apply only to railways and street railways not yet constructed and to railways and street railways already constructed where the space between the tracks commonly called the devil strip is, in the opinion of the Board, sufficiently wide to allow the cars to be constructed as provided in subsection 1 of this section.

Disputes to be settled by Board.

(4) In all cases of dispute between a railway or street railway company and a municipal corporation or any person making complaint to the Board as to sufficiency of width, practicability of construction of cars or as to any other matter or thing referred to in this section, the Board shall be the final judge, and any order made by the Board as to any such matter shall be carried out and fulfilled by the company and the municipal corporation or either or both of them according to the terms of such order.

Passengers not to stand on side steps.

(5) No passenger shall stand upon the side steps of any car for a greater length of time than is necessary to enable him to enter or leave the same, and any person offending against the provisions of this subsection shall incur a penalty of not less than \$2 or more than \$10 besides costs to be recovered on summary conviction.

#### THE ROAD BED AND ADJACENT LANDS.

#### *Frogs, Packing, etc.*

Interpretation.

"Packing."

83.—(1) In this section the expression "packing" means a packing of wood or metal, or some equally substantial and solid material, of not less than two inches in thickness, and which, where by this section any space is required to be filled in, shall extend to within one and a half inches of the crown of the rails in use on any such railway, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid.



(2) The spaces behind and in front of every railway frog or crossing, and between the fixed rails of every switch where such spaces are less than four inches in width, shall be filled with packing up to the under side of the head of the rail. Packing of frogs, etc.

(3) The spaces between any wing rail and any railway frog, and between any guard rail and the track rail alongside of it, shall be filled with packing at their splayed ends, so that the whole splay shall be so filled where the width of the space between the rails is less than four inches; such packing not to reach higher than to the under side of the head of the rail; provided however, that the Board may allow the filling and packing mentioned in this section to be left out, from the month of December to the month of April in each year, both months included, or between any such dates as the Board by regulation, or in any particular case, determines. Packing of wing-rails, etc. Exception in latter cases.

(4) The oil cups or other appliances, used for oiling the valves of every locomotive in use upon any steam railway shall be such that no employee shall be required to go outside the cab of the locomotive, while the same is in motion, for the purpose of oiling such valves. Oil cups.

### *Drainage.*

84.—(1) The company shall in constructing the railway make and maintain suitable ditches and drains along each side of, and across and under the railway, to connect with ditches, drains, drainage works and watercourses upon the lands through which the railway runs, so as to afford sufficient outlet to drain and carry off the water, and so that the then natural, artificial, or existing drainage of the said lands shall not be obstructed or impeded by the railway. Drainage by company.

(2) Whenever any lands are injuriously affected by reason of the drainage upon, along, across, or under the railway being insufficient to drain and carry off the water from such lands, or whenever any municipality or landowner desires to obtain means of drainage, or the right to lay water pipes or other pipes, temporarily or permanently, through, along, upon, across or under the railway or any works or lands of the company, the Board may, upon the application or complaint of the municipality or landowner, order the company to construct such drainage or lay such pipes, and may require the applicant to submit to the Board a plan and profile of the portion of the railway to be affected, or may direct an inspecting engineer, or such other person as it deems advisable to appoint, to inspect

inspect the locality in question and, if expedient, there hold an inquiry as to the necessity or requirements for such drainage or pipes, and to make a full report thereon to the Board; the Board may upon such report, or in its discretion, order how, where, when, by whom, and upon what terms and conditions, such drainage may be effected, or pipes laid, constructed and maintained, having due regard to all proper interests.

Drainage proceedings under Provincial Acts.

85.—(1) Whenever by virtue of any Act of the Province of Ontario proceedings may be had or taken by any municipality or landowner for any drainage, or drainage works, or for the construction, enlargement, improvement or extension of any ditch or watercourse upon or across the property of any landowner in the Province, proceedings may be had or taken under such Act by such municipality or landowner for the construction, enlargement, improvement or extension of the ditch or watercourse upon and across the railway and lands of the company, at the option of such municipality or landowner, in the place of the proceedings before the Board as in the next preceding section provided, and thereupon such Act shall apply to the lands of the company upon or across which such drainage or other work is required, to the same extent as to the lands of any landowner; subject, however, to any previous order or direction of the Board made or given with respect to drainage of the same lands, and provided that the company shall have the option of constructing the portion of any drain or drainage work, or ditch or watercourse, required to be constructed upon, along, under or across its railway or lands, and in the event of the company not exercising such option, and completing such work within a reasonable time, without any unnecessary delay, such work may be constructed or completed in the same manner as any other portions of such work are to be constructed under the provisions of such Act; provided always that no drainage works or ditch or watercourse shall be constructed or reconstructed upon, along, under or across the railway or lands of the company until the character of such works or the specifications or plans thereof have been first submitted to and approved of by the Board.

Approval of Board.

Cost of work.

(2) The proportion of the cost of the drain or drainage works, or of such ditch or watercourse, across or upon the railway to be borne by the company shall in all such cases be based upon the increase of cost of such work caused by the construction and operation of the railway.

#### *Farm Crossings.*

Farm crossings.

86.—(1) Every company shall make crossings for persons across whose lands the railway is carried, convenient and proper

proper for the crossing of the railway for farm purposes. In crossing with live stock, such live stock shall be in charge of some competent person, who shall use all reasonable care and precaution to avoid accidents.

(2) The Board may, upon the application of any land-owner, order the company to provide and construct a suitable farm crossing across the railway, wherever in any case the Board deems it necessary for the proper enjoyment of his land, on either side of the railway, and safe in the public interest; and may order and direct how, when, where, by whom, and upon what terms and conditions, such farm crossing shall be constructed and maintained.

Necessary crossings may be ordered by Board.

### *Fences, Gates and Cattle-guards.*

87.—(1) The company shall erect and maintain upon the railway, fences, gates and cattleguards, as follows:—

Fences, etc., to be kept up.

(a) On each side of all that portion of the railway which is not passing along or across a public highway fences shall be erected and maintained of the height and strength of an ordinary division fence.

Fences to be erected on each side of railway.

(b) Swing gates in such fences, of the height of the fence, with proper hinges and fastenings, at farm crossings; provided that sliding or hurdle gates, constructed prior to the passing of this Act, may be maintained.

Gates.

(c) Cattle-guards, on each side of the highway, at every highway crossing at rail-level by the railway. The railway fences at every such crossing shall be turned into the respective cattle-guards on each side of the highway. This provision shall not apply where a railway is being operated along a public highway.

Cattle-guards.

(2) Such fences, gates and cattle-guards shall be suitable and sufficient to prevent cattle, horses and other animals from getting on the railway.

To be suitable.

(3) Until such fences, gates and cattle guards are duly made, the company shall be liable for all damages which may be done by their motors, cars, carriages or trains to cattle, horses or other animals on that part of the railway hereby required to be fenced.

Liability of company until cattle-guards erected.

(4) Whenever the railway passes through any locality in which the lands on either side of the railway are not improved or settled, and enclosed, the company shall not be required to erect and maintain such fences, gates and cattle-guards unless the Board otherwise orders or directs.

If lands are not settled and inclosed.

(5) The persons for whose use farm crossings are furnished shall keep the gates at each side of the railway closed when not in use; and no person, any of whose cattle

Land owners must close gates at farm crossings.



horses or other animals are killed or injured by any train, owing to the non-observance of this section, shall have any right of action against any company in respect to the same being so killed or injured.

Leaving gates open.

Taking down fences.

Putting cattle on railways.

Permitting animals to get on railways.

Penalties for so doing.

No recourse against company.

Additional damages.

(6) Every person who wilfully leaves any such gate open without some person being at or near it to prevent animals from passing through it on the railway, or who takes down any part of a railway fence, or turns any horses, cattle or other animals, upon or within the inclosure of such railway, except for the purpose of, and while, taking the same across the railway in the manner provided by this Act, or who, except as authorized by this Act, rides, leads or drives any horses, cattle or other animal, or suffers any such horses, cattle or animals to enter upon such railway and within the fences and guards, is liable, on summary conviction, to a penalty of twenty dollars for each offence, and is also liable to the railway company for any damage to the property of the company or for which the company may be responsible by reason of such gate being so left open, or by reason of such fence being so taken down, or by the turning, riding, leading, driving or suffering to enter, upon or within the inclosure of such railway in violation of this section of any horse, cattle or other animals, and no person, any of whose horses, cattle or other animals are killed or injured by any train owing to the non-observance of this section shall have any right of action against any company in respect to the same being so killed or injured. Every person violating the provisions of this section shall in addition to the penalty herein provided be liable to pay any person injured by reason of such violation all damages sustained thereby.

### *Bridges, Tunnels and other Structures.*

Headway respecting bridges and tunnels.

88.—(1) Every bridge, tunnel or other erection or structure, over, through or under which any railway, now or hereafter, passes, shall be so constructed, and, if need be, re-constructed or altered within such time as the Board may order, and shall thereafter be so maintained, as to afford, at all times, an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beams, members or portions of that part of such bridge, tunnel, erection or structure, which is directly over the space liable to be traversed by such car in passing thereunder; but in no case shall the space between the rail-level and such beams, members or portions of any such structure, hereafter constructed, be less than twenty-two feet six inches, unless by leave of the Board;

Powers of Board where owners refuse

(2) If, in any case, it is necessary to raise, reconstruct or alter any bridge, tunnel, erection or structure not owned

by

by the company, the Board, upon application of the company and upon notice to all parties interested, or without any application, may make such order, allowing or requiring such raising, reconstruction or alteration, upon such terms and conditions as to the Board shall appear just and proper and in the public interest.

(3) The Board may exempt from the operation of this section any bridge, tunnel, erection or structure, through or under which no trains are run, except trains operated by electricity and except such as are equipped with air brakes.

(4) Every company or owner shall incur a penalty not exceeding fifty dollars for each day of wilful neglect, omission or refusal to obey the provisions of this section.

89.—(1) With respect to all bridges, tunnels, viaducts, trestles, or other structures, through, over, or under which the company's trains are to pass, the span, or proposed span or spans, or length of which exceeds eighteen feet, the company shall not commence the construction, or reconstruction, of, or any material alteration in, any such bridge, tunnel, viaduct, trestle, or other structure, until leave therefor has been obtained from the Board, unless such construction, reconstruction, or alteration is made in accordance with standard specifications and plans approved by the Board.

(2) Upon any application to the Board for such leave, the company shall submit to the Board the detail plans, profiles, drawings and specifications of any such work proposed to be constructed, and such other plans, profiles, drawings and specifications as the Board may in any case, or by regulation, require.

### Highway Crossings.

90.—(1) Subject to the provisions of this Act respecting the operation of railways along highways, the railway may be carried along or across an existing highway upon leave therefor having been first obtained from the Board as hereinafter provided.

(2) No obstruction of such highway with the works shall be made without turning the highway so as to leave an open and good passage for carriages, and, on completion of the works, restoring the highway to as good condition, as nearly as possible, as it was originally.

(3) Every company which violates the provisions of this section shall incur a penalty of not less than forty dollars for each such violation.

91. Whenever the railway crosses any highway at rail-level, whether the level of the highway remains undisturbed

or

of highway  
permitted.

or is raised or lowered to conform to the grade of the railway, the top of the rail may, when the works are completed, rise above or sink below the level of the highway to the extent of one inch without being deemed an obstruction, unless otherwise directed by the Board.

Plan of  
crossing of  
highway to be  
submitted.

92.—(1) Upon any application for leave to construct the railway across an existing highway, or to construct a highway across an existing railway, the applicant shall submit a plan and profile of such crossing, showing the portion of railway or highway affected, to the Board. The Board may by order grant such application upon such terms and conditions as to protection, safety and convenience of the public, as it may deem expedient, or may order that the highway be carried over or under the railway, or be temporarily or permanently diverted, and that such works be executed, watchmen or other persons employed, gates erected or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction arising or likely to arise therefrom.

Powers of  
Board in such  
case.

Overhead  
crossings.

(2) The highway at any overhead railway crossing shall not at any time be narrowed by means of an abutment or structure to an extent less than twenty feet, nor shall the clear headway from the surface of the highway to the centre of any overhead structure constructed after the passing of this Act be less than fourteen feet, unless otherwise directed or permitted by the Board.

As to existing  
crossings.

93. Where any railway is already constructed across any highway, the Board may order the company within a specified time to submit to the Board a plan and profile of such portion of the railway, and may, upon such submission, make any order in respect thereto that may to the Board seem proper.

All structures  
must be safely  
constructed  
and main-  
tained.

94. Every structure, by which any highway is carried over or under any railway, shall be so constructed, and, at all times, be so maintained, as to afford safe and adequate facilities for all traffic passing over, under or through such structure.

Inclination of  
highway.

95. The inclination of the ascent or descent, as the case may be, of any approach by which any highway is carried over or under any railway, or across it at rail level, shall not be greater than one foot of rise or fall for every twenty feet of the horizontal length of such approach, unless the Board directs otherwise; and a good and sufficient fence shall be made on each side of such approach, and of the structure connected with it, which fence shall be at least four feet six inches in height from the surface of the approach or structure.

Fencing  
approaches.



96. Signboards at least twelve feet in height at every highway crossed at rail level by any railway, shall be erected and maintained at each crossing, and shall have the words "Railway Crossing" painted on each side of the sign board, in letters at least six inches in length, and every company which neglects to comply with the requirements of this section shall incur a penalty not exceeding ten dollars.

Signboards  
at level  
crossings.

Penalty.

97.—(1) Where a level crossing on any railway is out of repair, the warden, mayor, or reeve of the municipality within whose jurisdiction the crossing is situate, may serve a notice upon the company in the usual manner, requiring the repair to be forthwith made; and if the company does not forthwith make the same, such head of the municipality may transmit a copy of the notice so served to the Board; and thereupon the Board may order an inspection to be made and may appoint an inspector for that purpose who shall with all possible despatch, appoint a day when he will examine into the matter; and he shall, by mail, give notice to the warden, mayor, or reeve, and to the company, of the day he so fixes; and upon the day so named he shall examine the crossing; and a certificate under his hand shall be final on the subject so in dispute between the parties; and if the said Inspector determines that any repairs are required, he shall specify the nature thereof in his said certificate, and direct the company to make the same; and the company shall thereupon, with all possible despatch, comply with the requirements of the certificate; and in case of default, the municipality within whose jurisdiction the said crossing is situate, may make such repairs, and may recover all costs, expenses and outlays in the premises by action against the company in any court of competent jurisdiction, as money paid to the company's use.

Railway may  
be required to  
repair any level  
crossing out of  
repair.

Inspector's  
certificate to  
be conclusive.

(2) The Inspector shall be entitled to be paid the sum of \$10 and actual travelling expenses while engaged on such inspection and in case he finds that any repairs are required he shall be paid by the company, but if he finds that no repairs are required he shall be paid by the municipality whose chief officer served the said notice.

Payments of  
inspectors.

(3) Neither this section nor any proceeding had thereunder shall at all affect any liability otherwise attaching to such company in the premises.

Proviso.

### *Crossings and Junctions.*

98.—(1) The railway lines or tracks of any company shall not be crossed or joined by or with the railway lines

Railway  
crossings and  
junctions.

or

- Power of the Board. or tracks of any other company until leave therefor has been obtained from the Board as hereinafter provided.
- Proceedings on application to Board. (2) Upon any application for such leave the applicant company shall submit to the Board a plan and profile of such crossing or junction and such other plans, drawings and specifications as the Board may in any case, or by regulation, require.
- Order of Board. (3) The Board may by order grant such application on such terms as to protection and safety as it may deem expedient, may change the plan and profile, drawings and specifications, so submitted and fix the place and mode of crossing or junction, and may direct that the lines and tracks of one company be carried over or under the lines and tracks of the other, and that such works, structures, equipment, appliances and materials be constructed, provided, installed, maintained, used or operated, watchmen or other persons employed, and measures taken, as under the circumstances appear to the Board best adapted to remove and prevent all danger of accident, injury or damage, and may determine the amount of damage and compensation, if any, to be paid for any property or land taken or injuriously affected by reason of the construction of such works.
- Supervision of works. (4) The Board may give directions as to supervision of the construction of the works, and order that detailed plans, drawings and specifications of any works, structures, equipment or appliances required, shall, before construction or installation, be submitted to and approved by the Board
- Order authorizing operation. (5) No trains shall be operated on the lines or tracks of the applicant company over, upon or through such crossing or junction until the Board grants an order authorizing such operation, but the Board shall not grant such order until satisfied that its orders and directions have been carried out, and that the provisions of this section have been complied with.
- Safety appliances on rail-level crossings. (6) The Board may order any company to adopt and put in use at any such crossing or junction, at rail level, such interlocking switch, derailling device, signal system, equipments, appliances and materials, as in the opinion of the Board renders it safe for engines and trains to pass over such crossing or junction without being brought to a stop.
- Application to street railways. (7) This section shall apply to street railway companies and street railways.

### *Mines and Minerals.*

Mines to be protected.

99. No company shall, without the authority of the Board, locate the line of its proposed railway, or construct

struct the same or any portion thereof, so as to obstruct or interfere with, or injuriously affect the working of, or the access or adit to any mine then open, or for opening which preparations are, at the time of such location, being lawfully and openly made.

100. The company shall not be entitled to any mines, ores, metals, coal, slate, mineral oils or other minerals in or under any lands purchased by it, or taken by it under any compulsory powers given it by this Act, unless the same have been expressly purchased; and all such mines and minerals, except as aforesaid, shall be deemed to be excepted from the conveyance of such lands, unless they have been expressly named therein and conveyed thereby.

Company not entitled to minerals, etc., in lands.

Exceptions.

101.—(1) No owner, lessee or occupier of any such mines or minerals lying under the railway or any of the works connected therewith, or within forty yards therefrom, shall work the same until leave therefor has been first obtained from the Board.

Mining under or within 40 yards of any railway.

(2) Upon any application to the Board for leave to work any such mine or minerals, the applicant shall submit a plan and profile of the portion of the railway to be affected thereby, and of the mining works or plant proposed to be constructed or operated, affecting the railway, giving all reasonable and necessary information and details as to the extent and character of the same.

Application for leave of Board.

(3) The Board may grant such application upon such terms and conditions, as to protection and safety of the public, as to the Board may seem expedient, and may order that such other works be executed, or measures taken, as under the circumstances appear to the Board best adapted to remove or diminish the danger arising, or likely to arise, from such mining operations.

Protection and safety of the public.

102. The company shall, from time to time, pay to the owner, lessee, or occupier of any such mines such compensation as the Board shall order to be paid to such owner, lessee, or occupier for and on account of any severance of the lands lying over such mines by the railway, or of the working of such mines being prevented, stopped or interrupted, or of the same being worked in such manner and under such restrictions as not to prejudice or injure the railway, and also for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway.

Compensation by company for loss by severance of mine.

103. If necessary in order to ascertain whether any such mines are being worked, or have been worked, so as to damage the railway or works or in such manner as to be detrimental

Power of company to enter mines for purpose of ascertaining whether work-



ing endangers  
railway.

detrimental to the safety of the public using the railway or of the tracks and trains of the company it shall be lawful for the company with the written permission and authorization of the Board after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus of such mines, and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked.

Penalty for  
refusing com-  
pany access  
to mines.

104. If the owner, lessee, or occupier of any such mine refuses to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall, for every such refusal, forfeit to the company a sum not exceeding \$100.

*Weeds on Company's Land.*

Company to  
remove weeds.

105.—(1) Every company shall cause all cleared land or ground adjoining the railway and belonging to the company to be covered with grass or turf if not already so covered and shall cause all thistles and noxious weeds growing on the right of way and over land of the company adjoining the railway to be cut down or to be rooted out and destroyed each year before the plants have sufficiently matured to seed.

Penalty.

(2) Every company which fails to comply with this section shall incur a penalty of ten dollars for every day during which such company neglects to do anything which it is so required to do.

On default  
municipal  
officers may  
perform.

(3) The mayor, reeve or other head of the municipality in which the land or ground lies may cause all things to be done which the said company is so required to do, and for that purpose may enter, by himself and his assistant or workmen, upon such lands, and the municipality may recover the expenses and charges incurred in so doing, and the said penalty, with costs, in any court of competent jurisdiction, and such expenses, penalty and costs shall be paid to the proper officer of the municipality.

Cost of work.

*Prevention of, and liability for, Fires.*

Prevention.

106.—(1) The company shall at all times maintain and keep its right of way free from dead or dry grass, weeds and other unnecessary combustible matter.

Liability for  
fire caused by  
locomotive.

(2) Whenever damage is caused to crops, lands, fences, plantations, standing or growing timber or trees or buildings and their contents, by a fire, started by a railway locomotive, the company making use of such locomotive  
whether

whether guilty of negligence or not, shall be liable for such damage and may be sued for the recovery of the amount of such damage in any court of competent jurisdiction; Provided that if it be shown that the company has used modern and efficient appliances and has not otherwise been guilty of any negligence, the total amount of compensation recoverable under this section, in respect of any one or more claims for damage from a fire or fires started by the same locomotive and upon the same occasion, shall not exceed five thousand dollars, and it shall be apportioned amongst the parties who suffered the loss as the court may determine.

(3) The company shall have an insurable interest in all such property upon or along its route, for which it may be so held liable, and may procure insurances thereon in its own behalf.

### *Construction of Road by Sections.*

107. The company is hereby authorized and empowered to take and make the surveys and levels of the lands through which the said railway is to pass, together with the map or plan and book of reference thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, so far as then ascertained, and to deposit the same as required by the clauses of this Act with respect to plans and surveys, by sections or portions less than the length of the whole railway authorized, of such length as the company may from time to time see fit, so that no one of such sections or portions shall be less than five miles in length, and upon such deposit as aforesaid of the map or plan and book of reference of any and each of such sections or portions of the said railway, all and every of the clauses of this Act, shall apply and extend to any and each of such sections or portions of the said railway as fully and effectually as if the surveys and levels had been taken and made of the lands through which the whole of the said railway is to pass, together with the map or plan and book of reference of the whole thereof, and of its whole course and direction, and of the lands intended to be passed over and taken, and the statement of the whole of the said railway had been taken, made, examined certified and deposited according to the said clauses of this Act. The construction of the railway in sections may be commenced at such point on the line of railway as the directors may determine, but the said work of construction shall be carried on from such point by sections continuing therefrom so as to form at all times one continuous line of railway; provided, however, that the Board may sanction and approve of the construction by sections at different points, and not continuously, along the said line of railway.

Five mile sections may be opened.

108. Whenever any section of the said railway of not less than five miles has been completed, the company may take the steps authorized by section 163 of this Act to be taken before a railway or a portion thereof is opened for the carriage of traffic and, with the permission of the Board as set forth in the said section, the company may open and operate such section as if it were a completed road, and all the sections of this Act applicable thereto shall thereupon apply to the said section as if it were a completed road, and to its operation.

*Commencement of Construction.*

Works not to be commenced until certain provisions complied with.

109. The company shall not commence the construction of the railway, or any section or portion thereof, until the provisions of this Act as to plans and surveys are fully complied with; and shall not make any change, alteration or deviation in the railway, or any portion thereof, until the provisions of subsection 13 of section 59 as to deviations are fully complied with.

*Compensation to Owners of Lands Adjacent to Highways.*

Compensation for damages to owners of lands adjacent to highway.

110.—(1) Where a railway constructs its tracks along one side of a highway or operates over a highway or railway or street railway crossing by means of a bridge or underneath a highway or railway or street railway crossing by means of a sub-way or tunnel, and in the construction of the approaches to such bridge or tunnel, raises or depresses part of a highway the owner of any land adjoining the portion of the highway upon the side thereof upon which the tracks are so constructed or upon or along which the said bridge or sub-way or tunnel or approaches thereto are constructed shall, if by reason of such construction, his land or the business carried on upon such land is thereby injured or in any way depreciated in value be entitled to receive compensation therefor from the company.

(2) The proceedings to obtain such compensation and to determine the amount thereof shall so far as applicable be the same as that provided in this Act in the sections respecting the taking of land without the consent of the owner.

(3) Compensation for injury to or depreciation of the value of any such business or land may be awarded by the arbitrators if in their judgment any such injury or depreciation is caused by the existence of the railway notwithstanding that the grade of the highway may not have been changed or altered.

(4) Not more than one award of damages shall be made under this section in respect of the same land or business.

(5) This section shall not apply to such portions of any railway as are constructed at the time of the coming into force



force of this Act, or which may be constructed under agreements existing at the time of the coming into force of this Act.

*Limitation of Time for Construction.*

111. If the construction of the railway or street railway is not commenced and fifteen per cent. of the amount of the capital stock is not expended thereon within two years after the passing of the special Act, or in case of a railway other than a street railway, if the railway is not finished and put in operation within five years from the passing of such Act, the powers granted by such Act or by this Act shall cease and be null and void as respects so much of the railway as then remains uncompleted.

Time for construction limited.

*Use of Steam During Construction.*

112. A company while constructing a line of railway to be operated by electricity on a right of way owned by the company shall have power to use steam as a motive power during such construction and at other times for construction purposes.

Electric companies may use steam for construction.

*Contracts for Construction.*

113.—(1) The directors may enter into a contract or contracts with any individual, corporation or association of individuals for the construction or equipment of the railway or any part thereof, including or excluding the purchase of right of way, and may pay therefor either in part or in whole, either in cash or bonds, or in paid-up stock, and may pay or agree to pay in paid-up stock or in bonds of the said company such sums as they may deem expedient to engineers, or for the right of way, or material, plant or rolling stock, and also for the services of the promoters or other persons who may be employed by the directors for the purpose of assisting the directors and furthering the undertaking, or for the purchase of right of way, material, plant or rolling stock, provided that no such contract shall be of any force or validity unless first authorized by resolution passed by the votes of the shareholders in person or by proxy representing two-thirds in value of the whole amount paid up of the total capital stock of the company then issued and outstanding at a general meeting of the shareholders specially called for the purpose of considering such matters, and the stock so acquired by any person shall for all purposes be deemed to be paid in cash.

Contracts for construction of line, etc.

Payment in stock or bonds.

(2) This section shall apply to street railway companies and street railways.

Application to street railways.

## OPERATION OF THE RAILWAY.

*Regulations governing the running of Trains.*

Trains to start  
at regular  
hours

**114.** The trains or cars shall start and run at regular hours or at regular intervals to be fixed by public notice, and shall furnish sufficient accommodation for the transportation of all such passengers and goods as are within a reasonable time previous thereto offered for transportation at the place of starting, and at the junctions of other railways, and at usual stopping places, established for receiving and discharging way-passengers and goods from the train or car.

Employees in  
passenger  
trains or  
stations  
to wear badges.

**115.** Every employee of the company employed in a passenger train or car or at a passenger station, shall wear upon his hat or cap a badge, which shall indicate his office, and he shall not, without such badge, be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property.

Expulsion on  
refusal to pay  
fare.

**116.**—(1) The fare or toll shall be due and payable by every passenger on entering the car, or other conveyance, and every passenger who refuses to pay his fare may, by the conductor of the train and the train servants of the company, be expelled from and put out of the car, with his baggage, at any usual stopping place, or near any dwelling house, as the conductor elects, the conductor first stopping the train and using no unnecessary force.

Application to  
street rail-  
ways.

(2) This section shall apply to street railways.

No claim for  
injuries in  
certain cases.

**117.** No person injured while on the platform of a car, or on any baggage, or freight car, in violation of the printed regulations posted up at the time, shall have any claim in respect of the injury, if room inside of the passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time.

Position of  
passenger cars.

**118.**—(1) Except by permission of the Board, no passenger train upon a steam railway shall have any freight, merchandise or lumber car in the rear of any passenger car in which any passenger is carried.

Penalty for  
violation.

(2) Every officer or employee of any company, who directs, or knowingly permits, any freight, merchandise or lumber car, to be so placed, shall be liable on summary conviction to a penalty not exceeding ten dollars.

Baggage  
checks.

**119.**—(1) A check shall be affixed by the company to every parcel of baggage, having a handle, loop or suitable means

means for attaching a check thereupon, delivered by a passenger to the company for transport, and a duplicate of such check shall be given to the passenger delivering the same.

(2) In the case of excess baggage the company shall be entitled to collect from the passenger, before affixing any such check, the toll authorized under this Act. Excess baggage.

(3) If such check is improperly refused on demand, the company shall be liable to such passenger for the sum of eight dollars, which shall be recoverable in a civil action; Liability for refusing to check baggage. Provided that this section shall not apply to any train or car operated by electricity unless the Board so orders.

120. No passenger shall carry, nor shall the company be required to carry upon its railway, gunpowder, dynamite, nitro-glycerine, or any other goods which are of a dangerous or explosive nature; and every person who sends by the railway any such goods without distinctly marking their nature on the outside of the package containing the same, and otherwise giving notice in writing to the station agent or employee of the company whose duty it is to receive such goods and to whom the same are delivered, or who carries or takes upon any train any such goods, for the purpose of carriage shall forfeit to the company the sum of five hundred dollars for every such offence. Transportation of dangerous goods. Nature must be marked on outside. Notice. Penalty.

121. The company may refuse to take any package or parcel which it suspects to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact; and the company shall not carry any such goods of a dangerous nature, except in cars specially designated for that purpose, on each side of each of which shall plainly appear in large letters the words "dangerous explosives"; and for each neglect to comply with the provisions of this section, the company shall incur a penalty of five hundred dollars. Company may refuse to carry. Carriage of such goods. Penalty.

122.—(1) When any railway passes over any navigable water, or canal, by means of a draw or swing bridge which is subject to be opened for navigation, every train shall, before coming on or crossing over such bridge, be brought to a full stop and shall not proceed until a proper signal has been given for that purpose, and in default the company shall be liable to a penalty not exceeding four hundred dollars. Any employee failing to comply with the rules of the company as to compliance with the provisions of this subsection shall be liable to the like penalty, or to six months' imprisonment, or to both. Trains to stop at swing bridges.



Where safety devices installed Board may otherwise order.

(2) Wherever there is adopted or in use on any railway at any such bridge, an interlocking switch and signal system, or other device which, in the opinion of the Board, renders it safe to permit engines and trains to pass over such bridge without being brought to a stop, the Board may, by order, permit engines and trains to pass over such bridge without stopping, under such regulations, as to speed and other matters, as the Board deems proper.

Application to street railways.

(3) This section shall apply to street railways.

Use of bell and whistle.

**123.** When any train is approaching a highway crossing at rail-level (except within the limits of cities or towns where the municipal authority may pass by-laws prohibiting the same), the engine whistle shall be sounded at least eighty rods before reaching such crossing, and then the bell shall be rung continuously until the engine has crossed such highway, or in the case of a car or locomotive operating by electricity an air whistle shall be blown or the gong be sounded continuously for eighty yards before reaching such crossing, and the company shall, for each neglect to comply with the provisions of this section, incur a penalty of eight dollars and shall also be liable for all damage sustained by any person by reason of such neglect; and every employee of the company who neglects to comply with this section shall for each offence be subject to a like penalty.

Penalty for non-compliance:

Damages.

Penalty on employee.

Signal at rail-level crossings.

**124.**—(1) No train, engine or motor car shall pass over any crossing where two main lines of railway cross each other at rail-level, until a proper signal has been received by the conductor, engineer or motorman in charge of such train, engine or motor car from a competent person or watchman in charge of such crossing that the way is clear; provided always, that in the case of an electric street railway car crossing any railway track not properly protected, it shall be the duty of the conductor, before crossing, to go forward and see that the track to be crossed is clear, before giving the signal to the motorman, that the way is clear and to proceed.

Electric street railway crossings.

Application of section.

(2) Every main track of a branch line is a main line within the meaning of this section, which shall apply, whether the said lines be owned by different companies or by the same company.

Stoppage of trains at rail-level crossings

(3) Every train shall, before it passes over any such crossing as in this section mentioned, be brought to a full stop; but whenever there is in use, at any such crossing, an interlocking switch and signal system, or other device which, in the opinion of the Board, renders it safe to permit engines and trains or electric cars to pass over such crossing without being brought to a stop, the Board may, by order, permit such engines and trains and cars to pass over such crossing without stopping, under such regulations

Where safety devices are installed Board may otherwise order.

tions

tions as to speed and other matters as the Board deems proper.

(4) Nothing in this section shall apply to a case in which the Dominion Railway Commission has jurisdiction to make an order and has made an order for the protection of such crossing.

125. Whenever in any city, town or village, any train is passing over or along a highway at rail-level, and is not headed by an engine or motor car moving forward in the ordinary manner, the company shall station on the then foremost part of the train, a person who shall warn persons standing on, or crossing, or about to cross, the track of such railway; and for every violation of any of the provisions of this section, or of either of the two sections next preceding, the company shall incur a penalty of one hundred dollars.

Trains, or cars moving reversely in cities, etc.

126.—(1) Whenever any railway crosses any highway at rail-level, the company shall not, nor shall its officers, agents, or employees, wilfully permit any engine, tender or car, or any portion thereof, to stand on any part of such highway, for a longer period than five minutes at one time, or in shunting to obstruct public traffic for a longer period than five minutes at any one time.

Trains must not stand on rail-level crossings more than five minutes.

(2) In every case of a violation of this section, every such officer, agent, or employee who has directly under or subject to his control, management or direction, any engine, tender or car which, or any portion of which, is allowed to stand on such highway, longer than the time specified in this section, is liable on summary conviction to a penalty not exceeding fifty dollars, and the company is also liable for each such violation, to a like penalty; provided always that if such alleged violation is in the opinion of the court excusable, the action for the penalty may be dismissed; and costs shall be in the discretion of the court.

Penalty.

Where violation excusable.

### *Sleeping and Parlor Cars.*

127. The company may contract with any person for the hauling by the special or regular trains of the company, of the parlor, drawing-room or sleeping car or cars of such person, in which extra accommodations shall be furnished, for which such person furnishing such parlor, drawing-room or sleeping car or cars, may charge for the carriage and transportation of persons and property therein such reasonable compensation as may be fixed by the Board, for such extra accommodation, in addition to the fare and charges for the carriage and transportation of passengers and property in the ordinary cars of the company. But the company so contracting shall be liable in the same way and to the same extent as if the said car or cars were owned by it, and shall furnish sufficient ordinary cars for the reasonable accommodation of the travelling public.

Sleeping and parlor cars.

*Stations.*

Accommodation for passengers and freight at stations.

Train accommodation.

Duties respecting transportation.

Payment of tolls.

Right of action on default.

Condition against negligence invalid.

Accommodation may be ordered by Board.

Stations not to be discontinued.

Complaint of ten citizens as to station accommodation.

128.—(1) The company shall, according to its powers, furnish, at the place of starting and at the junction of the railway with other railways, and at all stopping places established for such purpose, adequate and suitable accommodation for the receiving and loading of all traffic offered for carriage upon the railway,—and shall furnish adequate and suitable accommodation for the carrying, unloading and delivering of all such traffic,—and shall, without delay, and with due care and diligence, receive, carry and deliver all such traffic, and shall furnish and use all proper appliances, accommodation and means necessary therefor.

(2) Such traffic shall be taken, carried to and from, and delivered at such places, on the due payment of the toll lawfully payable therefor.

(3) Every person aggrieved by any neglect or refusal in the premises shall, subject to this Act, have an action therefor against the company, from which action the company shall not be relieved by any notice, condition or declaration or any agreement to the contrary if the damage arises from any negligence or omission of the company or of its servants.

(4) If in any case such accommodation is not, in the opinion of the Board, furnished by the company, the Board may order the company to furnish the same within such time or during such period as the Board deems expedient, having regard to all proper interests.

(5) No station established by any railway company for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the Board first had and obtained.

(6) Upon the written complaint of ten or more persons interested setting forth that any of the provisions of this Act as to station accommodation or stopping places are being violated by the company the Board shall forthwith investigate the complaint. If upon such investigation it is found that such violation exists the Board shall issue an order to the company setting forth the nature of the improvements required and shall direct that the same shall be completed within such time as the Board may think proper.

*Blackboards showing whether Trains on Time.*

Overdue trains.

129.—(1) Every company, upon whose railway there is a telegraph or telephone line in operation, shall have a blackboard put upon the outside of the station house, over the



the platform of the station, in some conspicuous place at each station of such company at which there is a telegraph or telephone office; and when any passenger train or car is overdue at any such station, according to the time table of such company, the station agent or person in charge at such station, shall write, or cause to be written, with white chalk on such blackboard, a notice stating, to the best of his knowledge and belief, the time when such overdue train or car may be expected to reach such station; and if there is any further change in the expected time of arrival the station agent or person in charge of the station shall write, or cause to be written on the blackboard in like manner, a fresh notice stating, to the best of his knowledge and belief, the time when such overdue train or car may then be expected to reach such station.

Notice at  
stations

Time when  
expected to be  
stated.

(2) Every such company, station agent or person in charge at any such station, is, on summary conviction, liable to a penalty not exceeding five dollars for every wilful neglect, omission or refusal to obey the provisions of this section.

Penalty for  
omission.

#### MUNICIPAL BONUSES AND LOANS.

130. Any municipality, or any portion of a township municipality, which may be interested in securing the construction of the railway, or through any part of which or near which the railway or works of the company shall pass or be situate may aid the company by giving money or debentures, by way of bonus, gift or loan, or by the guarantee of the municipal corporation, under and subject to the provisions hereinafter contained; provided always, that such aid shall not be given except after the passing of a by-law for the purpose and the adoption of such by-law by the qualified ratepayers of the municipality or portion of the municipality (as the case may be) in accordance with and as provided by law in respect to granting aid by way of bonuses to railways.

Aid from  
municipalities.

Proviso.

131. Such by-law shall be submitted by the municipal council to a vote of the ratepayers in manner following, namely:

Submitting  
bonus by-law.

(1) The proper petition shall first be presented to the council expressing the desire to aid the railway and stating in what way and for what amount; and the council shall within six weeks after the receipt of such petition by the clerk of the municipality, introduce a by-law to the effect petitioned for, and submit the same to the approval of the qualified voters.

(2) In the case of a county municipality, the petition shall be that of a majority of the members of the county council or of fifty resident freeholders in each of the

minor

3 Edw. VII  
c. 19.

minor municipalities of the county who are qualified voters under *The Consolidated Municipal Act, 1903*, and the amendments thereto.

3 Edw. VII.  
c. 19.

(3) In the case of other municipalities the petition shall be that of a majority of the council thereof, or fifty resident freeholders, being duly qualified voters under *The Consolidated Municipal Act, 1903*, and amendments thereto as aforesaid.

(4) In the case of a section of a township municipality the petition is to be presented to the council defining the section by metes and bounds, or lots and concessions, and shall be that of a majority of the council of such township municipality, or of fifty resident freeholders in such section of the municipality, being duly qualified voters as aforesaid.

Bonus by-law  
what to  
contain.

132. Such by-law shall in each instance provide:

(a) For raising the amount petitioned for in the municipality or portion of the township municipality, (as the case may be), mentioned in the petition, by the issue of debentures of the county or minor municipality, respectively, and shall also provide for the delivery of the said debentures, or the application of the amount to be raised thereby, as may be expressed in the said by-law.

(b) For assessing and levying upon all rateable property lying within the municipality or portion of the township municipality defined in the said by-law (as the case may be), an annual special rate, sufficient to include a sinking fund for the repayment of the said debentures within twenty years with interest thereon, payable yearly or half-yearly, which debentures the respective municipal councils, wardens, mayors, reeves and other officers thereof, are hereby authorized to execute and issue in such cases respectively.

Petition  
against aid  
from county

133. In case of aid from a county municipality, fifty resident freeholders of the county may petition the county council against submitting the said by-law, upon the ground that certain minor municipalities or portions thereof, comprised in the said by-law, would be injuriously affected thereby, or upon any other ground ought not to be included therein, and upon deposit by the petitioners, with the treasurer of the county, of a sum sufficient to defray the expenses of such reference, the said council shall forthwith refer the said petition to the Board who shall have power to confirm or amend the said by-law by excluding any minor municipality, or any section thereof, therefrom, and the by-law so confirmed or amended shall thereupon, at the option of the railway company, be submitted by the council to the duly qualified voters,

and

and in case the by-law is confirmed by the Board the expenses of the reference shall be borne by the petitioners against the same, but if amended, then by the railway company or the county or in such proportions between the company and the county as the Board may order.

134. The term "minor municipality" shall be construed to mean any town not separated from the municipal county, township or incorporated village situate in the county municipality. Minor municipality meaning of.

135. Before any such by-law is submitted, the railway company shall, if required, deposit with the treasurer of the municipality, a sum sufficient to pay the expenses to be incurred in submitting the said by-law. Deposit to be made before by-law submitted.

136. In case the by-law submitted be approved of and carried, in accordance with the provisions of the law in that behalf, then within four weeks after the date of such voting it shall be the duty of the municipal council which submitted the same to read the said by-law a third time and pass the same. Council to pass by-law if assented to by ratepayers.

137. Unless otherwise provided in the by-law, the said council and the mayor, warden, reeve or other officers thereof, within one month after the passing of such by-law, shall issue or dispose of the debentures provided for by the by-law, and deliver the same, duly executed, to the trustees appointed, or to be appointed under this Act. Issue of debentures.

138. In case any such loan, guarantee or bonus, be so granted by a portion of a township municipality, the rate to be levied for payment of the debentures issued therefor, and the interest thereon, shall be assessed and levied upon such portion only of such municipality. Levying rate on portion of municipality.

139. The provisions of *The Consolidated Municipal Act, 1903*, and the amendments thereto, so far as the same are not inconsistent with this Act, shall apply to any by-law so passed by or for a portion of a township municipality, to the same extent as if the same had been passed by or for the whole municipality. Application of provisions of 3 Edw. VII. c. 19.

140. The councils for all corporations that may grant aid by way of bonus to the company may, by resolution or by-law extend the time for the commencement of the work beyond that stipulated for in the by-law or by-laws granting such aid, from time to time; provided that no such extension shall be for a longer period than one year. Councils may extend time for commencement.

141. The council of any municipality that may grant aid by way of bonus, to the company, may by resolution Councils may extend time for completion.

tion



tion or by-law, extend the time for the completion of the works (on the completion of which the company would be entitled to such bonus), from time to time, provided that no such extension shall be for a longer period than one year at a time.

Extent of aid  
from municipi-  
palities.

Proviso.

142. Any municipality, or portion of a township municipality interested in the construction of the railway of the company may grant aid by way of bonus to the company towards the construction of such railway, notwithstanding that such aid may increase the municipal taxation of such municipality, or portion thereof, beyond what is allowed by law; provided that such aid shall not require the levying of a greater aggregate annual rate for all purposes exclusive of school rates, than three cents in the dollar upon the value of the rateable property therein.

Gifts of land.

143. Any municipality through which the railway may pass or in which the railway or part of it is situate is empowered to grant, by way of gift to the company, any lands belonging to such municipality, or over which it may have control, which may be required for right of way, station grounds or other purposes connected with the running or traffic of the railway, and the railway company shall have power to accept gifts of land from any government, or any person or body, corporate or politic, and shall have power, when the same are no longer required or necessary for the purposes of the company, to sell or otherwise dispose of the same for the benefit of the company.

Trustees of  
municipal  
debentures.

144. Whenever any municipality or portion of a township municipality shall grant aid by way of bonus or gift to the company, the debentures therefor shall within six months after the passing of the by-law authorizing the same, be delivered to three trustees to be named, one by the Board, one by the said company, and one by the majority of the heads of the municipalities which have granted bonuses, all of the trustees to be residents of the Province of Ontario; provided that if the said heads of the municipalities shall refuse or neglect to name such trustee within one month after notice in writing of the appointment of the company's trustee, or if the Board shall omit to name such trustee within one month after notice in writing to the Board of the appointment of the other trustees, then in either case the company shall be at liberty to name such other trustee or other trustees; any of the said trustees may be removed and a new trustee appointed in his place at any time by the Board, and in case any trustee dies or resigns his trust, or goes to live out of the Province of Ontario or otherwise becomes incapable

able

able of acting, his trusteeship shall become vacant and a new trustee may be appointed by the Board.

145. The said trustees shall receive the said debentures or bonds in trust, firstly, under the directions of the company but subject to the conditions of the by-law in relation thereto as to time or manner, to convert the same into money or otherwise dispose of them; secondly, to deposit the debentures or amount realized from the sale in some chartered bank having an office in the Province of Ontario in the name of "The \_\_\_\_\_ Railway Municipal Trust Account," and to pay the same out to the company from time to time as the company becomes entitled thereto, under the conditions of the by-law granting the said bonus and on the certificate of the chief engineer of the said railway for the time being, in the form set out in Schedule "A" hereto, or to the like effect, which certificate shall set forth that the conditions of the by-law have been complied with, and is to be attached to the cheque or order drawn by the said trustees for such payment or delivery of debentures, and such engineer shall not wrongfully grant any such certificate under a penalty of \$500, recoverable in any court of competent jurisdiction by any person who may sue therefor.

Trusts of proceeds of debentures.

146. The trustees shall be entitled to their reasonable fees and charges from the said trust fund, and the act of any two of such trustees shall be as valid and binding as if the three had agreed.

Fees of trustees.

147. The mayor, warden, reeve, or other chief officer of such municipal corporation granting a bonus or gift to the company to the amount of \$20,000, or upwards, shall be *ex officio* one of the directors of the company, in addition to the number of directors authorized by the special Act, and shall have the same rights, powers and duties as any of the directors of the company.

Mayor, etc., to be *ex officio* a director in certain cases.

148. The sections respecting municipal bonuses and loans, being sections 130 to 147 inclusive, shall apply to street railway companies.

Application to street railways

#### EXEMPTIONS FROM TAXATION.

149.—(1) The council of any municipality through any part of which the railway passes, or in which it is situated may by by-law especially passed for that purpose, exempt the company and its property within such municipality, either in whole or in part from municipal taxation, but not including taxation for school purposes, or fix a certain sum per annum, or otherwise, by way of commutation, or in lieu of all or any municipal rates or taxes, and for such term of years not exceeding twenty-one years as

By-law granting exemption from taxation.

such

such municipal council may deem expedient, and no such by-law shall be repealed unless in conformity with a condition contained therein.

Application  
to street  
railways.

(2) This section shall apply to street railway companies.

#### BY-LAWS, RULES AND REGULATIONS.

Company's  
by-laws  
respecting—

150. The company may, subject to the provisions and restrictions in this and in the Special Act, contained; make by-laws, rules or regulations respecting—

Speed.

(a) The mode by which, and the speed at which, any rolling stock used on the railway is to be moved;

Timetables.

(b) The hours of the arrival and departure of trains;

Loads.

(c) The loading or unloading of cars, and the weights which they are respectively to carry;

Freight  
regulations.

(d) The receipt and delivery of traffic;

Nuisances.

(e) The smoking tobacco, expectorating, and the commission of any nuisance in or upon trains, stations or other premises occupied by the company;

Traffic and  
operation.

(f) The travelling upon, or the using or working of, the railway;

Conduct.

(g) The employment and conduct of the officers and employees of the company;

Management.

(h) The due management of the affairs of the company; and

Passengers.

(i) The number of passengers to be allowed in cars, their mode of entrance or exit, and the portion of the car or the class of car to be occupied by them.

Penalty for  
violation of  
by-laws.

151. The company may, for the better enforcing the observance of any such by-law, rule or regulation affecting the officers or employees of the company prescribe in such by-law a penalty not exceeding forty dollars for any violation thereof.

Essentials to  
validity of  
by-law.

152. All by-laws, rules and regulations whether made by the directors or the company shall be reduced to writing, be signed by the chairman or person presiding at the meeting at which they are adopted, have affixed thereto the common seal of the company, and be kept in the office of the company.

Must be  
approved by  
Board.

153. All such by-laws, rules and regulations, except such as are of a private or domestic nature and do not affect the public generally, shall be submitted to the Board for approval. The Board may sanction them or any of them, or any part thereof, and may from time to time, rescind the sanction of any such by-law, rule or regulation or

of



of any part thereof. Except when so sanctioned no such by-law, rule or regulation shall have any force or effect.

154. A printed copy of so much of any by-law, rule or regulation, as affects any person, other than the shareholders, or the officers or employees of the company, shall be openly affixed, and kept affixed, to a conspicuous part of every station belonging to the company, so as to give public notice thereof to the persons interested therein or affected thereby. Publication of by-laws, etc.

155. A printed copy of so much of any by-law, rule or regulation as relates to the conduct of or affects the officers or employees of the company, shall be given to every officer and employee of the company thereby affected. Publication of by-laws, etc., affecting employees.

156. Such by-laws, rules and regulations when so approved shall be binding upon, and observed by, all persons, and shall be sufficient to justify all persons acting thereunder. By-laws, etc., binding when approved.

157. If the violation or non-observance of any by-law, rule or regulation, is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, using reasonable force, if necessary, to prevent such violation, or to enforce observance, without prejudice to any penalty incurred in respect thereof. Summary interference in certain cases.

158. A copy of any by-law, rule or regulation, certified as correct by the president, secretary or other executive officer of the company and bearing the seal of the company, shall be evidence thereof in any court. Evidence.

159. All by-laws, rules and regulations of a company operating its railway by electricity partially or wholly on a highway or of a street railway company shall be subject to any agreement that may have been made by such company and the municipal corporation owning or maintaining such highway. By-laws, etc., to be subject to agreements with municipalities.

#### NOTICES OF BY-LAWS, ETC.

160. Notice of any by-law or of any order or notice of the company affecting any officer or employee thereof may be proved by proving the delivery of a copy thereof to such officer or employee, or that such officer or employee signed a copy thereof, or that a copy thereof was posted in some one place where his work or his duties, or some of them, were to be performed. How notice of by-laws or orders may be proved.

161. The sections relating to "By-laws, Rules and Regulations," being sections 150 to 160 inclusive, shall apply to street railways and street railway companies. Application of secs. 150-160 to street railways.

## INSPECTION OF RAILWAYS.

*Inspecting Engineers.*

Appointment  
of inspecting  
engineers.

162.—(1) Inspecting engineers may be appointed by the Board, subject to the approval of the Lieutenant-Governor in Council.

Duties.

(2) It shall be the duty of every such inspecting engineer, upon being directed by the Board, to inspect any railway, or any branch line, siding or portion thereof whether constructed, or in the course of construction, to examine the stations, rolling stock, rails, road bed, right of way, tracks, bridges, tunnels, trestles, viaducts, drainage, culverts, railway crossings and junctions, highway and farm crossings, fences, gates and cattle-guards, telegraph, telephone, or other lines of electricity, and all other buildings, works, structures, equipment, apparatus, and appliances thereon, or to be constructed or used thereon, or such part thereof as the Board may direct, and forthwith to report fully thereon in writing to the Board.

Powers of  
inspection.

(3) Every such inspecting engineer shall be vested with all the powers in regard to any such inspection as are provided in section 49 of "*The Ontario Railway and Municipal Board Act, 1906.*"

Duties of  
company  
respecting  
inspect-  
ing  
engineers.

(4) Every company, and the officers and directors thereof, shall afford to any inspecting engineer such information as is within their knowledge and power, in all matters inquired into by him, and shall submit to such inspecting engineer all plans, specifications, drawings and documents relating to the construction, repair, or state of repair, of the railway, or any portion thereof.

Inspecting  
engineers  
may travel  
free.

(5) Every such inspecting engineer shall have the right, while engaged in the business of such inspection, to travel without charge on any of the ordinary passenger trains running on the railway, and to use without charge the telegraph wires and machinery in the offices of, or under the control of, any such company.

Use telegraph  
wires, etc.

Transmission  
of telegrams.

(6) The operators, or officers, employed in the telegraph offices of, or under the control of, the company, shall, without unnecessary delay, obey all orders of any such inspecting engineer for transmitting messages; and every such operator or officer, who neglects or refuses so to do, shall, for every such offence, be liable, on summary conviction, to a penalty of forty dollars.

Penalty upon  
failure.

Proof of  
engineer's  
authority.

(7) The production of his appointment in writing, signed by the Chairman of the Board, or the Secretary, shall be sufficient

sufficient evidence of the authority of such inspecting engineer.

(8) Every person who wilfully obstructs any inspecting engineer in the execution of his duty, is liable, on summary conviction, to a penalty not exceeding forty dollars; and in default of payment thereof forthwith, or within such time as the convicting justices or justices of the peace appoint, to imprisonment with or without hard labour for any term not exceeding three months.

Penalty for obstructing inspecting engineers.

### *Inspection of Line.*

163.—(1) No railway, or any portion thereof, shall be opened for the carriage of traffic, other than for the purposes of the construction of the railway by the company, until leave therefor has been obtained from the Board, as hereinafter provided.

Leave of Board before opening.

(2) When the company is desirous of so opening its railway, or any portion thereof, it shall make an application to the Board, supported by affidavit of its president, secretary, engineer or one of its directors, to the satisfaction of the Board, alleging that the railway, or portion thereof, desired to be so opened is in his opinion sufficiently completed for the safe carriage of traffic, and ready for inspection, and requesting the Board to authorize the same to be opened for such purpose.

Proceedings.

Affidavit.

(3) Before granting such application the Board shall direct an inspecting engineer to examine the railway, or portion thereof, proposed to be opened, and if the inspecting engineer reports to the Board, after making such examination, that in his opinion the opening of the same for the carriage of traffic will be reasonably free from danger to the public using the same, the Board may make an order granting such application, in whole or in part, and may name the time therein for the opening thereof, and thereupon the railway, or such portion thereof as is authorized by the Board, may be opened for traffic in accordance with such order.

Inspection.

When opening reported to be safe.

Order of Board.

(4) But if such inspecting engineer, after the inspection of the railway, or the portion thereof, shall report to the Board that in his opinion the opening of the same would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the construction or equipment of such railway or portion thereof, he shall state in his report the reasons for such opinion, and the company shall be entitled to notice thereof, and shall be served with a copy of such report and reasons, and the Board may refuse such application, in whole or in part, or may direct a further or other inspection and report to be made.

When opening reported dangerous.

Notice to be served on company.



Provision for  
further  
inspection.

Order for  
opening.

(5) If thereafter upon such further or other inspection or upon a new application under this section, the inspecting engineer reports that such railway, or portion thereof, may be opened without danger to the public, the Board may make the like order as provided in subsection 3 of this section and thereupon the railway, or such portion thereof, as is authorized by the Board, may be opened for traffic in accordance therewith.

Leave to carry  
freight traffic.

(6) The Board, upon being satisfied that public convenience will be served thereby, may, after obtaining a report of an inspecting engineer, allow the company to carry freight traffic over any portion of the railway not opened for the carriage of traffic in accordance with the preceding provisions of this section.

Opening  
without leave  
of Board.

Penalty.

(7) If any railway, or portion thereof, is opened contrary to the provisions of this section, the company, or person to whom such railway belongs shall forfeit to His Majesty the sum of two hundred dollars for each day on which the same is, or continues open until such order is obtained.

Where  
railway out  
of repair.

Inspection

Board  
may order  
repairs, etc.

May enjoin  
use of portions  
of railways  
pending  
repairs.

Or of  
equipment.

Penalty  
for non-  
compliance.

164.—(1) Whenever the Board receives information that any railway, or any portion thereof, is dangerous to the public using the same, from want of renewal or repair, or insufficient or faulty construction, equipment, or from any other cause, the Board may direct an inspecting engineer to examine the railway, or any portion thereof; and upon the report of the inspecting engineer may order any repairs, renewal, reconstruction, alteration or new works, materials or equipment to be made, done, or furnished by the company or municipality upon, in addition to, or substitution for, any portion of the railway, which may, from such report, appear to the Board necessary or proper to avoid such danger, and may order that until such repairs, renewals, reconstruction, alteration, and work, materials or equipment are made, done and furnished to its satisfaction, no such portion of the railway in respect of which such order is made, shall be used, or used otherwise than subject to such restrictions, conditions and terms as the Board may in such order impose. And the Board may by such order, condemn, and thereby forbid further use of, any rolling stock which, from such report, it may consider unfit to repair or use further.

(2) If, after notice of any such order made by the Board, the company shall use any rolling stock, after the same has been so condemned by the Board, or shall disobey or fail to comply with any order of the Board made under this section, the company shall, for each day on which such order is disobeyed, forfeit to His Majesty the sum of five hundred dollars; and any person wilfully and knowingly aiding

aiding or abetting any such violation shall be guilty of an offence, and on summary conviction thereof shall be liable to a penalty of not less than twenty dollars nor more than two hundred dollars.

Aiding and abetting.

(3) This section shall apply to street railways.

Application of section to street railway.

165.—(1) If in the opinion of any inspecting engineer, it is dangerous for trains to pass over any railway, or any portion thereof, until alterations, substitutions or repairs are made thereon, or that any of the rolling stock should be run or used, the said engineer may, by notice, forthwith, either forbid the running of any train over such railway or portion of railway, or require that the same be run only at such times, under such conditions, and with such precautions, as he, by notice specifies, and he may forbid the running or using of any such rolling stock by serving upon the company owning, running or using such railway, or any officer having the management or control of the running of trains on such railway, a notice in writing to that effect, with his reasons therefor, in which he shall distinctly point out the defects or the nature of the danger to be apprehended; and for every act of non-compliance therewith such company shall forfeit to His Majesty the sum of two thousand dollars.

Inspecting engineer may in case of danger issue prohibitions.

Procedure.

Reasons and defects must be stated.

Penalty.

(2) The inspecting engineer shall forthwith report the same to the Board which may either confirm, modify or disallow the act or order of such engineer; and notice of such confirmation, modification or disallowance, shall be duly given to the company.

Report of inspecting engineer.

Action thereon.

Notice.

166. The company shall, as soon as possible after the receipt of any order or notice of the Board affecting any of the officers or employees of the railway or any of the duties of such officers or employees, give cognizance thereof to each of its officers and employees, in one or more of the ways mentioned in section 160 of this Act.

Company to notify orders of Board to its officers, etc.

167. All orders of the Board shall be considered as made known to the company by a notice thereof signed by the chairman or secretary thereof, and delivered to the president, vice-president, managing director, secretary or superintendent of the said company, or at the office of the company.

What to be deemed sufficient notice thereof.

*Inspection not to Relieve from Liability.*

168. No inspection had under this Act, and nothing in this Act contained, and nothing done or ordered or omitted to be done or ordered, under or by virtue of the provisions of this Act, shall relieve, or be construed to relieve, any company

Inspection not to relieve company from liability.

company of or from any liability or responsibility resting upon it by law, either towards His Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, tutor or curator, heir or personal representative, of any person, for anything done or omitted to be done by such company, or for any wrongful act, neglect or default, misfeasance, malfeasance or nonfeasance, of such company, or in any manner or way to lessen such liability or responsibility or in any way to weaken or diminish the liability or responsibility of any such company, under the laws in force in this Province.

## TOLLS.

*By-Laws as to.*

By-laws to be passed authorizing issue of tariffs of tolls to be charged by the company.

169.—(1) The company or the directors of the company, by by-law or any such officer or officers of the company as are thereunto authorized by by-law of the company or directors may from time to time prepare and issue tariffs of the tolls to be charged, as hereinafter provided, for all traffic carried by the company upon the railway, or in its vessels, and may specify the persons to whom, the place where, and the manner in which, such tolls shall be paid.

To be approved by Board.

(2) All such by-laws shall be submitted to and approved by the Board.

Board may approve in whole or in part or may change.

(3) The Board may approve such by-laws in whole or in part, or may change, alter or vary any of the provisions therein.

No tolls to be charged until by-law approved by Board.

(4) No tolls shall be charged by the company until a by-law authorizing the preparation and issue of tariffs of such tolls has been approved by the Board, nor shall the company charge, levy or collect any money for any services as a common carrier, except under the provisions of this Act.

*Collection of Tolls.*

Collecting back charges on goods.

170.—(1) The company shall have the power to collect and receive all charges subject to which goods or commodities may come into their possession, and on payment of such charges by the company without any formal transfer, the company shall have the same lien for the amount thereof upon such goods or commodities as the person to whom such charges were originally due, and shall be subrogated by such payments to all the rights and remedies of such persons for such charges.

(2)



(2) In case of refusal or neglect of payment on demand of any such tolls, or any part thereof, to such persons, the same may be sued for and recovered in any court of competent jurisdiction, or the agents or servants of the company may seize the goods for or in respect whereof such tolls ought to be paid, and detain the same until payment thereof; and in the meantime the said goods shall be at the risk of the owners thereof.

(3) If the tolls are not paid within six weeks, and where the goods are perishable goods, if the tolls are not paid upon demand or if such goods are liable to be destroyed while in the possession of the company by reason of delay in payment or taking delivery by the consignee, the company may advertise and sell the whole or any part of such goods and out of the money arising from such sale retain the tolls payable and all reasonable charges and expenses of such seizure, detention and sale, and shall deliver the surplus, if any, or such of the goods as remain unsold, to the person entitled thereto. Sale of goods to recover tolls.

(4) If any goods remain in the possession of the company unclaimed for the space of twelve months, the company may thereafter, and on giving public notice thereof by advertisement for six weeks in the *Ontario Gazette*, and in such other papers as they deem necessary, sell such goods by public auction at a time and place to be mentioned in such advertisement, and out of the proceeds thereof pay such tolls and all reasonable charges for storing, advertising and selling such goods; and the balance of the proceeds, if any, shall be kept by the company for a further period of three months, to be paid over to any person entitled thereto.

(5) In default of such balance being claimed before the expiration of the period last aforesaid, the same shall be paid over to the Provincial Treasurer to be applied to the general purposes of the Province, unless claimed by the person entitled thereto, within six years of the date of such payment.

#### *Passenger Fares on Electric Roads.*

171.—(1) Notwithstanding anything contained in any agreement with any municipal or other corporation or person or any provision contained in any special Act to the contrary, the fares to be taken by the company on a railway operated by electricity for each passenger shall not exceed five cents for any distance not exceeding three miles, and where the distance exceeds three miles then not exceeding two cents per mile or fraction thereof for the distance Limit of fares on electric railways.

tance actually travelled. Children under ten years of age shall be carried for three miles or less for three cents and for any additional distance for half fare, but children in arms shall in all cases be carried free.

Pupils' tickets. (2) Pupils under seventeen years of age actually attending school shall be entitled to purchase at any office of the company where tickets are sold on a certificate from their principal teacher that they are *bona fide* pupils attending school eight tickets for twenty-five cents, such tickets to be used only between the hours of eight o'clock and half past nine in the forenoon, and between half-past three and five o'clock in the afternoon, and then only for the purpose of attending and returning from school, provided that no such tickets shall entitle any pupil to ride a greater distance than five miles.

Certain agreements not affected.

(3) This section shall not be construed to alter or vary any agreement by which the company is bound to charge a lesser rate of fares for passengers than those mentioned in this section, or to supply a greater number of tickets to pupils attending school or to pupils of a lesser age or at different hours or for a greater distance than mentioned in this section.

Application to street railways.

(4) This section shall apply to street railways.

Section not to apply to companies operating in certain parks.

(5) This section shall not apply to a company whose tariff for passenger fares is subject to the approval of any commissioners in whom are vested any park or lands owned by the Crown for the use of the public of the Province of Ontario.

#### BOARD AND MEMBERS OF LEGISLATURE TO BE CARRIED FREE.

Members of Legislature and Board to have free transportation

172. The company shall furnish free transportation upon any of its trains, for members of the Legislature with their baggage, and also for the members of the Board, and for such officers and staff of the Board as the Board may determine, with their baggage and equipment, and shall also, when required, haul free of charge any car provided for the use of the Board.

#### DISCRIMINATION.

Discrimination prohibited.

173.—(1) Such tolls may be either for the whole or for any particular portions of the railway; but all such tolls shall always, under substantially similar circumstances and conditions be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise, in respect of all traffic of the same description and carried in or upon a like kind of cars, passing over the same portion of the line

line of railway; and no reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular person or company travelling upon or using the railway.

(2) The tolls for larger quantities, greater numbers, or longer distances may be proportionately less than the tolls for smaller quantities or numbers, or shorter distances, if such tolls are, under substantially similar circumstances charged equally to all persons.

Proportionate decrease in tolls in certain cases.

(3) The company may make uniform special rates for the carriage of fruit, milk and other perishable products and commodities.

Special rates for perishable goods.

(4) No toll shall be charged which unjustly discriminates between different localities. The Board shall not approve or allow any toll, which for the like description of goods or for passengers, carried under substantially similar circumstances and conditions in the same direction over the same line, is greater for a shorter than for a longer distance, the shorter being included in the longer distance, unless the Board is satisfied that owing to competition, it is expedient to allow such toll. The Board may declare that any places are competitive points within the meaning of this Act.

Unjust discrimination between localities prohibited.

Long and short haul clause.

Competitive points.

(5) No company shall, except in accordance with the provisions of this Act, directly or indirectly, pool its freights or tolls with the freights or tolls of any other railway company or common carrier, nor divide its earnings or any portion thereof with any other railway company or common carrier, nor enter into any contract, arrangement, agreement, or combination to effect, or which may effect, any such result, without leave therefor having been obtained from the Board.

Pooling prohibited.

174. All companies shall, according to their respective powers, afford to all persons and companies all reasonable, and proper facilities for the receiving, forwarding and delivering of traffic upon and from their several railways, for the interchange of traffic between their respective railways, and for the return of rolling stock; and no company shall make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person, or company or any particular description of traffic, in any respect whatsoever, nor shall any company by any unreasonable delay or otherwise howsoever, make any difference in treatment in the receiving, loading, forwarding, unloading, or delivery of the goods of a similar character in favour of or against any particular person, or company, nor subject any particular person, or company, or any particular description

Duty of company to afford reasonable facilities for receiving, forwarding, and delivering traffic without partiality and without unreasonable delay.



Undue  
preference or  
advantage.

Undue  
prejudice or  
disadvantage.

Agreements in  
violation void.

Power of  
Board to  
determine  
what are  
substantially  
similar circum-  
stances undue  
preferences,  
etc.

Burden of  
proof respect-  
ing unjust  
discrimina-  
tion, etc.

What Board  
may consider  
in determining  
unjust dis-  
crimination,  
etc.

tion of traffic, to any undue, or unreasonable, prejudice or disadvantage, in any respect whatsoever; nor shall any company so distribute or allot its freight cars as to discriminate unjustly against any locality or industry, or against any traffic which may originate on its railway destined to a point on another railway in Ontario with which it connects; and every company which has or works a railway forming part of a continuous line of railway with, or which intersects, any other railway, or which has any terminus, station or wharf near to any terminus, station or wharf of any other railway, shall afford all due and reasonable facilities for delivering to such other railway, or for receiving from and forwarding by its railway all the traffic arriving by such other railway without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage, as aforesaid, and so that no obstruction is offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation, by means of the railways of the several companies, is, at all times, afforded to the public in that behalf; and any agreement made between any two or more companies contrary to this section shall be unlawful and null and void.

175. The Board may determine, as questions of fact, whether or not traffic is or has been carried under substantially similar circumstances and conditions, and whether there has, in any case, been unjust discrimination, or undue or unreasonable preference or advantage, or prejudice or disadvantage, within the meaning of this Act, or whether in any case the company has, or has not, complied with the provisions of this and the last preceding section; and may by regulation declare what shall constitute substantially similar circumstances and conditions, or unjust or unreasonable preferences, advantages, prejudices, or disadvantages within the meaning of this Act, or what shall constitute compliance or non-compliance with the provisions of this and the last preceding section.

176.—(1) Whenever it is shown that any company charges one person, company, or class of persons, or the persons in any district, lower tolls for the same or similar goods, or lower tolls for the same or similar services, than they charge to other persons, companies, or class of persons, or to the persons in another district, or makes any difference in treatment in respect of such companies or persons, the burden of proving that such lower toll, or difference in treatment, does not amount to an undue preference or an unjust discrimination shall lie on the company.

(2) In deciding whether a lower toll, or difference in treatment, does or does not amount to any undue preference or an unjust discrimination, the Board may consider whether

whether such lower toll, or difference in treatment, is necessary for the purpose of securing, in the interest of the public, the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher tolls.

(3) In any case in which the toll charged by the company for carriage, partly by rail and partly by water, is expressed in a single sum, the Board, for the purpose of determining whether a toll charged is discriminatory or contrary in any way to the provisions of this Act, may require the company to declare forthwith to the Board, or may determine what portion of such single sum is charged in respect of the carriage by rail.

Apportionment of toll for carriage by land and water.

177. Every company which grants any facilities for the carriage of goods by express to any express company or person, shall grant equal facilities, on equal terms and conditions, to any other express company which demands the same.

Equal facilities to be granted to express companies.

178. Nothing in this Act shall be construed to prevent the carriage, storage or handling of traffic free or at reduced rates for the Dominion, or any provincial or municipal government, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the carriage, free or at reduced rates, of destitute or homeless persons, transported by charitable societies, and the necessary agencies employed in such transportation, nor to prevent the issuance of mileage, excursion or commutation passenger tickets, or the carriage at reduced rates, of immigrants or settlers, and their goods and effects, or any member of any organized association of commercial travellers with his baggage, nor to prevent railways from giving free carriage or reduced rates to their own officers and employees, or their families, or for their goods and effects, or to members of the press, or to such other persons as the Board may approve or permit, nor to prevent the principal officers of any railway, or any railway or transportation company, from exchanging passes or free tickets with other railways, or railway or transportation companies, for their officers and employees and their families, or their goods and effects; provided that the carriage of traffic by the company under this section may, in any particular case or by general regulation, be extended, restricted, limited or qualified by the Board.

Reduced rates for public or charitable purposes.

Proviso.

#### APPOINTMENT OF RAILWAY CONSTABLES.

179.—(1) The Justices of the Peace for any county assembled at any General Sessions of the Peace on the application of the board of directors of the company whose railway or any part thereof passes within the local jurisdiction of such Justices of the Peace, or on the application of any

Constables may be appointed to act on the line of any railway.

clerk or agent of the company thereto authorized by such board, may, in their discretion appoint any persons recommended to them for that purpose by such board of directors, clerk or agent, to act as constables on and along such railway; and every person so appointed shall take an oath or make a solemn declaration in the form or to the effect following, that is to say:

Oath of office.

"I, A. B., having been appointed a Constable to act upon and along (*here name the Railway*), under the provisions of *The Ontario Railway Act, 1906*, do swear that I will well and truly serve our Sovereign Lord the King, in the said office of Constable, without favour or affection, malice or ill-will, and that I will, to the best of my power, cause the peace to be kept, and prevent all offences against the peace, and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge the duties thereof faithfully, according to law: So help me God."

By whom to be administered

(2) Such oath or declaration shall be administered by any one such Justice or by the Clerk of the Peace for such county.

Appointment to be in writing.

(3) Such appointment shall be made in writing signed by the Clerk of the Peace and the fact that the person appointed thereby has taken such oath or declaration shall be endorsed thereon by the person administering such oath or declaration.

Powers of such constables, and to what localities they shall extend.

180. Every constable so appointed, and having taken such oath or made such declaration as aforesaid, shall have full power to act as a constable for the preservation of the peace and for the security of persons and property against felonies and other unlawful acts on such railway, and on any of the works belonging thereto, and on and about any trains, roads, wharves, quays, landing-places, warehouses, lands and premises belonging to the company, whether the same be in the county, city, district or other local jurisdiction within which he was appointed, or in any other place through which such railway passes, or in which the same terminates, or through or to which any railway passes which is worked or leased by such railway company, and in all places not more than one quarter of a mile distant from the railway; and shall have all the powers, protections and privileges for the apprehending of offenders, as well by night as by day and for doing all things for the prevention, discovery and prosecution of felonies and other offences, and for keeping the peace, possessed by any constable duly appointed.

Duties of such constables.

181. It shall be lawful for any such constable to take such persons as may be punishable by summary conviction for any offence against the provisions of this Act, or of any of the Acts or by-laws affecting any such railway, before any Justice or Justices appointed for any county, city, district



district or other local jurisdiction within which such railway passes; and every such Justice shall have authority to deal with all such cases, as though the offence had been committed and the person taken within the limits of his own local jurisdiction.

182. The Judge of the County Court of the County in which the constable resides, may dismiss any such constable, and the board of directors of the company or any manager or superintendent thereof may dismiss any such constable who may be acting on the railway; and upon such dismissal, all powers, protection and privileges belonging to any such person, by reason of such appointment, shall wholly cease; and no person so dismissed shall be again appointed or act as a constable for such railway without the consent of the authority by which he was dismissed. Dismissal of any such constable.

183. The company shall cause to be recorded in the office of the clerk of the peace, for every county wherein such railway passes the name and designation of every constable so appointed at its instance, the date of his appointment, and the authority making it, with such appointment or a certified copy thereof, and also the fact of every dismissal of any such constable, the date thereof, and the authority making the same, within one week after the date of such appointment or dismissal, as the case may be; and such clerk of the peace shall keep a record of all such facts in a book which shall be open to public inspection, and shall be entitled to a fee of fifty cents for each entry of appointment or dismissal, and twenty-five cents for each search or inspection, including the taking of extracts. Such record shall, in all courts, be *prima facie* evidence of the due appointment of such constable and of his jurisdiction to act as such, without further proof than the mere production of such record. Record of appointment of constables. And of dismissals.

184. Every such constable who is guilty of any neglect or breach of duty in his office of constable, shall be liable, on summary conviction thereof, within any county, city or district wherein such railway passes, to a penalty not exceeding eighty dollars, or to imprisonment, with or without hard labour, for a term not exceeding two months. Such penalty may be deducted from any salary due to such offender, if such constable is in receipt of a salary from the company. Neglect of duty by constable. Penalty.

#### PASSENGER CONDUCTORS TO HAVE THE POWER AND AUTHORITY OF CONSTABLES.

185.—(1) The conductor of every train carrying passengers within this Province and the conductor of the car or cars of every railway carrying passengers within this Province, is hereby invested with all the powers of a constable, while Conductors to have powers of constables.

while on duty on his train or on said car and cars, and said conductor may wear a badge or other distinguishing mark of a special constable.

Removal of  
passenger  
guilty of  
misconduct.

(2) When a passenger is guilty of disorderly conduct, or uses any blasphemous or obscene language, or plays any game of cards or chance for money or any other thing of value, upon any passenger train or upon the car or cars of any railway carrying passengers within this Province, the conductor of such train or car or cars of such railway may stop his train or said car or cars at the place where such offence is committed or at the next stopping place of such train or of such car or cars and eject such passenger from the train or from said car or cars, using only such force as may be necessary to accomplish such removal; and the conductor may command the assistance of the employees of the company, and of the passengers on such train or on such car or cars to assist in such removal; but before doing so he shall render to such passenger such proportion of the fare he has paid as the distance he then is from the place to which he has paid fare bears to the whole distance for which his fare is paid.

Conductor  
may arrest  
passenger for  
offences.

186. When a passenger is guilty of any offence upon a passenger train or upon the car or cars of any railway carrying passengers within this Province, the conductor of such train or of such car or cars may arrest him and take him before any Justice having cognizance of such offence in any county or district in this Province in which such train or car or cars runs, and lay an information before such Justice, charging him with such offence; but in no case shall the liability of the company for damages caused by the conduct of its conductor be affected by the provisions of this and the next preceding section.

Notice of  
authority of  
conductor.

187. The company shall cause a notice to be placed in all passenger cars stating that the conductors have the authority and powers of constables.

Protection of  
conductor  
acting as con-  
stable.

188. A conductor exercising the powers of a constable under this Act shall be entitled to the protection accorded by law to constables engaged in the performance of their duties as such.

#### STREET RAILWAYS AND RAILWAYS OPERATING ALONG HIGHWAYS.

##### *General Provisions.*

Application of  
ss. 190-221 to  
street railways  
and electric  
railways on  
highways.

189. Unless otherwise provided, sections 190 to 221 inclusive, shall apply only to street railways and companies incorporated for the purpose of constructing, maintaining and operating street railways as defined in the interpretation clauses of this Act, and to other railways incorporated for the purpose of operating partially or wholly along highways by electricity.

190. Every such company shall, subject to any provisions contained in the special Act or in any agreement made between the company and a municipality, have authority to construct, maintain, complete, and operate and from time to time to remove and change as required, a double or single track railway, with the necessary switches, side tracks and turn-outs, for the passage of cars, carriages and other vehicles adapted to the same, upon and along such of the highways in any municipality to which the Special Act extends, as the council of the municipality may by by-law authorize, and over and upon lands purchased or leased by the company for that purpose, and to take, transport and carry passengers upon the same, by the force or power of electricity, and to construct and maintain all necessary works, buildings, appliances and conveniences connected therewith.

Powers of  
Company

191. The company may take, transport and convey goods upon its railway, but no freight or express cars shall be carried along any highway in any city, town or village over the railway unless and until the size and number of the cars and motors to be used therewith, and the hours of running the same, have been approved by the Board, nor shall any freight service be operated nor any class of freight carried on any such highway until authorized by, or except as directed by the Board.

Freight traffic

192. Subject to the provisions of section 217 of this Act, the company and the council of any municipality in which a railway or part of a railway is laid may, amongst other things, enter into any agreements they think advisable, relating to the construction of the railway; the time within which the railway shall be commenced, the manner of proceeding therewith, and the time of its completion; the paving, macadamizing, repairing, grading, and cleaning of the streets upon which the railway is laid; the construction, opening and repairing of drains and sewers; the laying, repairing or taking up of gas and water pipes in the streets; the location of the railway, and the particular streets along which the same may be laid; the pattern of rails; the time and speed of running the cars, sleighs and other conveyances; the fares to be charged within the maximum hereinbefore mentioned, and the amount of compensation (if any) to be paid by the company annually or otherwise.

Agreements  
between muni-  
cipality and  
company as to  
construction,  
street repairs,  
etc.

### *Sunday Cars.*

193.—(1) No company or municipal corporation operating a street railway, tramway or electric railway, shall operate the same or employ any person thereon on the first day of the week commonly called Sunday, except for the purpose of keeping the track clear of snow or ice, or for the purpose of doing other work of necessity.

Street railways  
etc., not to be  
operated on  
Sunday.



## Exceptions.

(2) Notwithstanding anything in this Act or in the special Act or in any agreement contained, companies which have before the first day of April, 1897, regularly run cars on Sunday may hereafter do so, but the foregoing subsection shall not confer any rights so to run cars on Sunday not now possessed by such companies nor shall it affect or apply to any company which has by its charter or by any special Act the right or authority to run cars on Sunday nor shall it affect the right (if any) of the Toronto Railway Company to run cars on Sunday; nor shall it affect the right of any railway company to run cars or trains as provided in subsection 2 of section 136 of Chapter 209 of the Revised Statutes of Ontario, 1897, which right shall be continued as though such statute stood unrepealed.

## Penalty.

(3) For every train or car run or operated in violation of this section, the company shall forfeit and pay the sum of \$400, to be recovered in any court having jurisdiction in civil cases, for the amount, by any person suing for the same under this section and for the purpose thereof. The action for the recovery of the said sum shall be brought before a court having jurisdiction as aforesaid in the place from which such train or car started, or through which it passed or at which it stopped in the course of such operation.

## Application of penalties.

(4) All moneys recovered under the provisions of this section shall be appropriated as follows: One moiety thereof to the plaintiff and the other moiety to the local municipality from which the train or car started; but if the train or car is operated by the municipality from within whose limits the same started, the plaintiff shall receive the whole amount so recovered.

## Liabilities of conductor.

(5) The conductor or other person in charge of any train or car run or operated in violation of the provisions of this section shall be liable for every such offence to a penalty not exceeding \$40 nor less than \$1, besides costs, and the same shall be recoverable on summary conviction.

## Application of section.

(6) This section shall apply to all railways operated by electricity and street railways whether they are operated on a highway or on a right of way owned by the company.

## Guard wires.

194.—(1) The company, when operating any portion of its line across or along a highway by means of electricity conveyed by wires above ground, shall cause to be strung and maintained guard wires, as far as may be reasonably possible sufficient to prevent telegraph, telephone or other wires now or hereafter strung across or along the highway from coming into contact with or falling upon the said wires conveying such electricity.

## Protecting water pipes etc., from injury by electricity

(2) The company, when operating any portion of its line by means of electricity, shall use such means and appliances as may, as far as may be reasonably possible, prevent water pipes, gas pipes, cables and other things now or hereafter placed underground from being damaged in consequence

consequence of the escape or discharge of electricity into the ground. Unless otherwise ordered by the Board, proper bonding of the rails and connecting the rails so bonded to the electric power generator or generators with a proper and efficient system of return wires shall be taken to be a compliance with the conditions of this section.

(3) The Board shall have power to make such order or orders as to it may seem proper to compel the proper observance of this section. Powers of board.

195. Any person suffering damage by reason of the non-compliance by the company with the provisions of the preceding section shall have a right of action against the company therefor. Right of action.

#### *Forfeiture for Non-user.*

196.—(1) In case the company at any time ceases to regularly use the whole or any part of its railway for a period of eighteen months, it shall, upon its being so ordered by the Board, forfeit the right to use the railway or the part unused, as the case may be, together with the rails, poles and wires thereof, and the company shall, in addition, indemnify the municipality in respect of all costs incurred in taking up the rails and putting the highways in proper repair. Forfeiture by non-user.

(2) The municipality shall have a lien upon the rails, poles, wires, rolling stock, and other property of the company until the expense of taking up the rails and putting the highways in proper repair is paid. Lien of municipality.

#### *Additional Powers of Electric and Street Railways.*

197. Railway companies operating by electricity and street railway companies shall also have power: Powers as to production and use of electricity.

(1) To construct, maintain and operate works for the production of electricity for the motive power of the said railways, and for the lighting and heating the rolling stock and other property of the company.

(2) To acquire by lease or purchase and to hold, utilize and develop water powers and the necessary land therewith, and to construct the necessary plant for the purpose of generating electricity for lighting, heating and power in operating the said railway. Purchase of water powers and stock in water or power company.

(3) To enter into any agreement with any person or company for supplying steam or other power for the production of electricity for the purposes of the railway or with any electric light or electric railway company, or any company organized for the purpose of supplying or furnishing electric power Arrangements for supply of power.

power, for the purchase, leasing or hiring of power to run their electric motors, carriages or cars, or for lighting or heating the same, or for any other purpose for which it may be required by the company to construct, carry on or operate the railway.

Power to  
acquire lands  
for parks, etc.

(4) To purchase, lease or acquire by voluntary donation and to hold for any estate in the same and to sell, lease, alienate or mortgage any lands or premises intended and necessary or suitable for park or pleasure grounds and to improve and lay out such lands as parks or places of public resort and to make and enter into any agreement or arrangements with the municipal corporations of the municipalities wherein the same are situate or any of them, in respect thereto, subject, however, to the power of the municipality to pass by-laws to regulate the use of such public parks and pleasure grounds; but none of the provisions of this clause shall be in force or have effect unless and until the municipal council or councils of the municipality or municipalities wherein the lands proposed to be acquired by the company are situate has or have by by-law declared its or their assent to the company's acquiring lands under and for the purpose mentioned in this clause. No such park or pleasure grounds shall be used for games, pic-nics, concerts, excursions or other public entertainments on Sunday.

Proviso.

Acquiring  
rights for con-  
veying elec-  
tricity.)

(5) To purchase the right to convey electricity required for the working of the railway and lighting or heating the same over, through or under lands other than the lands of the railway by the special Act authorized to be built, and with the consent of the councils of the municipalities affected, to purchase the right to lay conduits under, or erect poles and wires on or over such lands as may be determined by the company, and along and upon any of the public highways, or across any of the waters in this Province by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires of such lines, or the conduits for such electricity, upon and subject to such agreement in respect thereof as shall first be made between the company and any private owners of the lands affected, and between the company and any municipality in which such works or any part thereof or of the railway may be situate, and under and subject to any by-law or by-laws of the council of such municipality passed in pursuance thereof, provided such works are not so constructed as to incommode the public use of such roads or highways, or as to be a nuisance thereto, or to impede the free access to any house or other building erected in the vicinity of the same or to endanger or injuriously affect the same or injuriously to interrupt the navigation of such waters. The rights conferred upon the company shall not be exercised within the limits of any

Park



Park vested in the Crown for the use of the public of the Province of Ontario or any land vested in any commissioners for any such park without the consent of the commissioners and the approval of the Lieutenant-Governor in Council.

(6) Subject to the provisions of sections 202 to 208, inclusive, and of section 218 of this Act, no railway or street railway shall be constructed or operated along any street, highway or public place of any municipality until first authorized by an agreement in respect thereto made between the company and such municipality and under and subject to the terms of such agreement and of section 217 of this Act and of any by-law or by-laws of the council of said municipality to be passed in pursuance thereof; and in all such cases any and every work, matter or thing in connection with the motive power, and the application and using thereof in so constructing, operating and working such railway, or the cars, carriages, engines, motors or machines thereof shall be so constructed, erected, laid down and arranged as to impede or incommode the public use of such street, highway or public place as little as possible, and so as not to be a nuisance thereto, nor to interfere with the free access to any house or other building erected in the vicinity of the same, and the electric and other appliances shall be of such an improved manufacture and so placed as to avoid so far as possible any danger to buildings or other property.

198.—(1) No municipal council, notwithstanding anything contained in this or any other Act to the contrary, shall pass a by-law authorizing any electric railway company or street railway company to lay out or construct its railway along any public highway, until written or printed notices of the intended by-law, specifying the route to be taken by the railway, shall have been previously posted up for one month in six of the most public places in the municipality, and published weekly for at least four successive weeks in some newspaper published in the municipality, or, if there be no such newspaper, in a newspaper published in a neighboring municipality, or, if there be no such newspaper, then in a newspaper published in the county town.

(2) The council shall hear in person or by counsel any one whose property may be prejudicially affected by such proposed railway who desires to be heard.

(3) If after hearing such objections as may be made, the council shall pass a by-law authorizing the construction of a railway or street railway on, upon or along any highway, any fifteen freeholders in the municipality may petition the Board to amend or quash such by-law, and upon such

Construction of  
railway on  
highways.

Notice to be  
given before  
passing by-law  
authorizing  
construction  
on highways.

Objectors to be  
heard by  
council.

Appeal to  
Board to quash  
or amend.

such petition after hearing all parties interested the Board shall have power to amend such by-law in such manner as to the Board may seem proper or to quash the same.

Costs.

(4) The costs of such proceeding shall be in the discretion of the Board and may be fixed by the Board or taxed by one of the taxing officers of the Supreme Court of Judicature.

Section not to apply to certain extensions.

(5) This section shall not apply to extensions within the limits of a city or town of a street railway already constructed.

Power to deviate.

199. The company may, at any point or points where its railway may run along the highway, deviate from such highway to a right of way owned by the company provided that no obstruction of such highway shall be made by such deviation; but if the rails on such deviation do not rise above or sink below the surface of the road more than one inch they shall not be deemed an obstruction; provided that the right by this section conferred shall not be exercised by the company without the consent of the Board; and the Board may, upon such terms as seem just, on application of the company, order that the said company may make such deviation.

Proviso.

Limitation of transmission of electrical energy.

200. Notwithstanding anything contained in this Act, or in any statute of the Province, no municipality shall have the power to grant to any railway or street railway any exclusive rights, privileges, or franchise, as to the transmission of electrical energy for power, light and heat over or across any public highway or street in the said municipality.

#### *Expropriation by Street Railway Companies.*

Expropriation of land, when and to what extent allowed.

201.—(1) In case the council of a municipality, by resolution, declares that the council is of opinion that a company incorporated with power to construct a street railway in the municipality should have powers of expropriation for the purposes of building a part of its railway between two or more points, set forth in the resolution, and situated within the municipality, the company, upon registering the resolution in the proper registry office, shall, in respect of lands lying between the points named, possess the powers conferred upon railway companies under the sections of this Act relating to the taking of lands without the consent of the owner.

(2) Such powers shall be exercised within two years from the passing of the resolution, and not afterwards, and the lands to be taken hereunder shall not exceed one chain in width.

(3) The provisions of this section shall not apply to the tract of country extending three miles above and three miles below the Falls of Niagara, and for a width inland of one mile from the River Niagara.

*Duration of Street Railway Franchises.*

**202.**—(1) No municipal council shall grant to a street railway company any privilege under this Act for a longer period than twenty-five years, but at the expiration of twenty-five years from the time of passing the first by-law which is acted upon, conferring the right of laying rails upon any highway, or at such other earlier date as may be fixed by agreement, the municipal corporation may, after giving to the company one year's notice prior to the expiration of the period limited, assume the ownership of the street railway, and all real and personal property in connection with the working thereof, on payment of the actual value thereof, to be determined by the Board. In ascertaining the actual value of such street railway and real and personal property, the franchise or control of tracks upon the highways shall not be estimated as of any value whatever.

Time for which municipality may grant privileges.

(2) In case the corporation fails to exercise the right of assuming the ownership of the street railway, at the expiration of the said period, the corporation may exercise such right at the expiration of any fifth year thereafter, upon giving one year's notice to the company, and the privileges of the company shall continue until the ownership is assumed by the municipal council.

Municipality may assume the ownership.

**203.** If a street railway is situated in two or more municipalities, the city or town municipality shall have the right to exercise the power of purchase herein conferred, unless the municipal councils agree otherwise between themselves; and the corporation purchasing shall thereafter possess all the powers and authority and be subject to all the conditions and restrictions theretofore enjoyed and suffered by the company, and shall, as to other municipalities into which the railway runs, be subject to the like liabilities; and shall be subject to all orders and directions of the Board in the same manner and to the same extent as a company operating a street railway.

Mode in which right to purchase to be exercised as between different municipalities interested.

**204.**—(1) The council of a municipality into which a street railway runs may at any time after the right of assuming the ownership of the street railway accrues to such municipality, or to any other municipality, require that the terms upon which the street railway shall be operated in such municipality be determined, and the terms, unless the parties in the meantime agree, shall be determined by the Board, and such arrangement shall remain in force for ten years.

Municipality dissatisfied with terms as to railway in certain cases, may require an arbitration.

(2) At the end of that period either party may require that the terms be settled anew in like manner for another period of ten years; but such settlement or agreement shall be without prejudice to the right hereinbefore conferred upon a city or town to assume the ownership of the street railway at the expiration of any fifth year.

Re-adjustment of terms.



Municipality acquiring railway may transfer same to a company.

205. The municipal corporation purchasing may, at any time, transfer its rights to its street railway lines or any of them, and the whole or any part of the plant of the railway to any person or company authorized to operate a street railway; subject to such terms and conditions as may be agreed upon by such street railway company and the municipal corporation.

Application of preceding section.

206. A company to which any lines of street railway have been transferred by a municipal corporation shall, as respects the provisions of the next preceding section, stand in the same position as the municipal corporation from which it received such transfer.

Municipality owning street railway to be deemed company.

207. Any municipal corporation assuming the ownership of a street railway and operating the same shall be deemed to be a street railway company for all the purposes of this Act.

*Duration of Privileges to Operate Electric Railways along Highways.*

Franchise in highways limited to twenty-five years.

208.—(1) No municipal council shall grant to any railway company operating by electricity any privilege to operate along a highway for a longer period than twenty-five years.

Powers of municipality.

(2) At the expiration of the said period of twenty-five years the council of any municipality, along the highways of which such railway or any portion thereof is operated, may agree to extend such privilege for a further term of years not exceeding twenty-five years, upon such terms and conditions as may be agreed by the municipality and the company, or with the consent of the Board such municipality may assume the ownership of that portion of the railway operating along the highways of such municipality within its limits, upon payment of the actual value thereof, to be determined by the Board. In determining such actual value the franchise or control of the tracks upon such highways shall not be estimated as of any value whatever.

Notice of intention to take over railway.

(3) The ownership of such portion of such railway shall not in any case be assumed by such municipality unless notice of the intention of such municipality to assume such ownership has been given to the company one year prior to the expiration of the privilege or franchise, and in no case shall a municipality assume such ownership without the written consent of the Board.

(4) This section shall only apply to electric railways that are not street railways. Application of section.

*Fenders, Brakes, etc.*

209. The company, when operating any portion of its line by means of electricity along a highway shall from time to time adopt and use in the front of each motor car a fender or guard and shall from time to time adopt and use a brake and such other life saving appliances as shall be of a design approved from time to time by the Board as suitable for use by the company, having regard to the efficiency of such fender, guard, brake and other life saving appliances for life saving purposes, and to the location of the company's line, and the speed at which the company's cars may be run. Fenders and other appliances.

210. The fender, guard, brake or other life saving appliance so approved of by the Board shall be adopted and used upon the cars of the company within the time fixed by the order approving of the same, or by any order extending the said time; provided that where the cars of a company are equipped with fenders of a class so approved by the Board the company shall not be liable for non-compliance with any by-law or agreement relating to the class of fenders to be used in any city, or town, or any requirement of the engineer or other officer of the municipality under any such by-law or agreement. Fenders, etc., to be adopted when ordered. Proviso.

211. The company shall pay to the corporation of the municipality in which such road is operated the sum of ten dollars for each day in which any motor car is operated within such municipality without having such a fender, guard, brake or other life saving appliances thereon, except in cases of accident or unavoidable necessity; such sum or sums to be recovered from such company in a civil action. Penalties for not providing fenders, etc.

212. If the Board shall so order the company shall allow tests to be made on any of its motors or cars, of any fender, guard, brake or other life saving appliance that the Board may consider it advisable to have tested with a view to ascertaining its efficiency for the purpose for which it is designed. Tests of fenders, brakes, etc.

*Lavatories, etc.*

213.—(1) All street railway companies shall, within six months after being so ordered by the Board, provide, furnish and thereafter maintain suitable and sanitary urinals and other conveniences for the use of the employees of the company. Conveniences for street railway employees.

company operating its cars. Such urinals and other conveniences may be located upon land owned or provided by the said company and reasonably accessible to each of the various lines of railway operated by the said company, and at such points as the Board may direct, within the limits of the city or town, and the employees of the said company shall be allowed reasonable opportunity of access thereto.

Penalty for not supplying.

(2) The company shall be liable to a penalty of ten dollars per day for each day it shall neglect to provide each or any of the said urinals or other conveniences.

Cost of providing conveniences.

(3) The cost of such urinals and conveniences shall be borne by the company or by the city or town within the limits of which the company's lines are operated, or by both in such proportions, in case the parties are unable to agree, as may be determined by the Board.

City or town may be ordered to provide site.

(4) The Board may, in its discretion, order the city or town to provide the site for the company upon such terms as to cost and otherwise as the Board may determine.

Board may order conveniences to be open to the public.

(5) When so ordered by the Board, such urinals and conveniences shall be open to the public as well as the employees of the company, and when so open to the public the Board may order the cost of the maintenance of the same to be borne by the city or town and the company in such proportions as to it may seem proper.

Sanitary conveniences on cars.

214.—(1) The Board may order the company to provide sanitary conveniences for the use of passengers on all passenger cars.

(2) This section shall only apply to electric railways that are not street railways, and to steam railways.

### *Unclaimed Property.*

Disposal of unclaimed property on street railways.

215. It shall be the duty of every street railway company which shall have unclaimed property left in its cars, to ascertain if possible, the owner or owners of such property, and to notify such owner or owners of the fact by mail as soon as possible, after such property comes into its possession. Every such company which shall have such property not perishable in its possession for the period of three months, may sell the same at public auction, after giving notice to that effect, by one publication, at least ten days prior to the sale, in a daily newspaper published in the city or town in which such sale is to take place, of the time and place at which such sale will be held, and such sale may be adjourned from time to time until all the articles offered for sale are sold. All perishable property so left, may be sold by any such street railway company without notice, as soon as it can be, upon the best terms that can be obtained.



*Transfer in Ownership of Highways.*

216. In case any railway operated by electricity upon a highway or a portion of which is so operated has been heretofore, or shall hereafter be, constructed in any municipality under any agreement with the council thereof, or with the council having the control of the highway therein, and the territory, or any part of the territory in which such railway has been, or shall be constructed, is subsequently to the making of such agreement, removed from one municipality to another, or the highway along which such railway has been or shall be constructed, has ceased to be owned or controlled by one municipality, or the council thereof, or by any council having the control of such highway, and has become vested in or has been placed under the control of another municipality or the council thereof, then so far as such agreement relates to the maintenance and repair of the track and roadbed of the railway or the remaining portions of the highway or highways over which the railway is operated, and to the removal of snow and ice from the company's track and the disposal of such snow and ice upon the highway or elsewhere the corporation of such last mentioned municipality and any officer or person appointed for such purpose shall be substituted for and shall have all the rights and may exercise all the powers and be subject to the same duties as the municipal corporation party to such agreement and any officer or person named therein and charged with the performance of any duty in respect to the matters aforesaid thereunder.

Agreements with companies as to certain matters to ensure for benefit of municipality owning road.

AGREEMENTS WITH MUNICIPALITIES FOR OPERATING ALONG  
HIGHWAYS.

217. Any agreement made after the passing of this Act between a municipal corporation and a company under which agreement the company obtains a right or franchise to operate along a highway shall (unless such provisions or any of them are expressly excluded from such agreement), be deemed to contain the clauses set forth in the following subsections hereof, viz. :

Clauses to be included in agreements.

(a) The rails of the company shall conform to the grade of the street. Grade.

(b) In all cases where the rails are laid upon the paved or travelled portion of the street, or on any part thereof, the rails shall be laid (as nearly as practicable) flush with the street, and shall be laid so as to cause the least possible impediment to the ordinary traffic of the street, and shall be so kept and maintained by the railway company.

Rails to be flush with street, etc.

(c)

Company to  
keep roadway  
in repair.

(c) The company so long as it shall continue to use any of its tracks on the travelled portion of the highway shall keep in repair the whole space used on its track allowances, crossings, switches and turnouts and eighteen inches of the highway outside of its tracks.

Company  
neglecting to  
repair.

(d) If the company neglect to keep in repair its track allowances and crossings, switches and turnouts or to have the necessary repairs according to the agreement made thereon, the council of the municipality may give notice to the company requiring such repairs to be forthwith made, and the certificate of the engineer appointed by the council for the time being as to the necessity for such repairs shall be binding and conclusive upon the company, and if after the giving of such notice the company do not within one week begin, and thereafter, with all reasonable diligence, carry such work of repairing to completion, the municipal council shall have the right to cause such repairs to be made, and the company shall pay to the treasurer of the municipality the expenditure incurred in making or completing such repairs.

Penalty.

(e) The payment of such amount shall not relieve the company from any penalty provided for the omission to repair by the agreement between the municipal corporation and the company.

Speed.

(f) No car or train of cars shall be operated on the travelled portion of any highway at a greater speed than fifteen miles an hour unless authorized by the Board, and shall operate at a lesser rate of speed if ordered and directed by the Board.

Intersecting  
roads.

(g) At the intersection of the company's railway and cross streets or highways crossing or intersecting the highway upon which the railway is operated the company shall construct and keep in repair crossings of a similar character to those adopted by the municipality and shall construct underneath its track allowance such culverts and waterways as are in the opinion of the council of the municipality or its engineer or other officer appointed for that purpose necessary for drainage purposes, and shall at the entrance to private properties abutting upon the company's railway construct such approaches as may be directed by the council or such officer or by the Board.

Culverts.

(h) When the company's tracks are built over any existing culvert the company shall when so directed by the council or such engineer or other officer or the Board extend such culvert so that the portion of the highway to be travelled upon by the public shall have a width of at least eighteen feet between the company's nearest tracks and the end of the culvert upon the side of the road opposite to such track.

Snow

(i) The company shall remove the snow from, and without in its tracks and switches, but any snow put upon the  
graded

graded part of the road by the company shall be evenly spread thereon in a manner to be approved by the council or its engineer or other officer.

(j) The municipal council may at any time, after giving to the company 20 days' notice of its intention so to do, take up any part of the highway along which the company's railway is constructed, for the purpose of altering the street or road grade, constructing sewers, drains, culverts or side crossings, laying down gas and water pipes or underground wires, and for all other purposes within the province and privileges of a municipal corporation, without being liable for any compensation or damage that may be occasioned to the working of the railway or the works connected therewith. When and so often as it may be necessary for the municipal corporation to open the road or street for the purpose of repairing such street or road, sewer, drains, culverts, gas or water pipes, or underground wires, or for putting in gas, water or other services, a reasonable notice shall be given to the company of the council's intention so to do, and the work thereon shall not be unnecessarily delayed but shall be carried on and completed with all reasonable speed, due regard being had to the proper and efficient execution thereof.

Taking up streets by municipality.

(k) All work done under the authority of the agreement shall be done in the most substantial manner and according to the best modern practice under the superintendence and to the satisfaction of the engineer or officer appointed by the council for such purpose with a right of appeal to the Board.

Work to be done to satisfaction of municipality's engineer.

(l) The alignment of the company's tracks, the location of switches and the grades of the roadbed of its railway shall be prescribed by such engineer or other officer.

Alignment, switches and grades.

(m) The company shall repay to the municipality all sums paid by it to such officer or engineer for services performed by him in connection with the company's work.

Company to pay for engineer.

(n) All persons using the said highway shall be at liberty to travel upon any portion of the travelled roadway occupied by the company's railway, and in the same manner as upon other portions of the highway, and vehicles of every description are to be allowed upon such portions of the highway, it being provided, however, that the company's cars shall have the first right of way over the said railway, and all vehicles or persons travelling on that portion of the highway occupied by the railway shall turn out to let the trains or cars pass—and any person refusing or neglecting so to do shall be liable on summary conviction to a fine of not more than ten dollars and costs.

Right of public to use track allowances.

(o) The words "travelled portion" where used in this section as applicable to roads, streets or highways shall be

"Travelled portion," meaning of.

deemed



deemed to mean that central portion of roads, streets or highways between the ditches or drains on either side thereof and ordinarily used for vehicular traffic.

*Radial Lines.*

Operating in  
cities.

Proviso.

Proviso.

218.—(1) Notwithstanding anything in this Act contained, the railway shall not be constructed along any highway within the limits of any city or town except upon and subject to such terms and conditions as may be agreed upon between the company and the street railway or electric railway, if any, already operating in such city or town and the council of the corporation of such city or town. Provided always that if there is an existing agreement between such city or town and the street railway or electric railway already operating in such city or town then the railway shall not be constructed along any such highway, except, upon and subject to the terms of such existing agreement; provided also, that where no provision is contained in any agreement between any street railway or electric railway company and the city or town for the admission of other electric or street railways, then if the council of such city or town shall by by-law or resolution request the street railway company or electric railway company already operating in such city or town, to allow its tracks or any of the streets to be used for the entrance of such other railway, or if such street railway company or electric railway company or such other railway shall by by-law or resolution request the city or town to permit the entrance of the railway into such city or town, the company so operating in the city shall permit its tracks or any streets to be so used to some central point in the said city or town, and the said city or town shall permit such other railway to enter within the limits of such city or town, upon such terms and conditions as to compensation, location of central point, and otherwise as may be mutually agreed upon between such other railway, the council and such street railway or electric railway company, or as shall be settled and determined by the Board in case the council and the said two companies are unable to agree upon the same.

Grant of  
franchise to  
radial railway  
not to extend  
beyond street  
railway com-  
pany's  
franchise.

(2) The Board shall not (without the consent of the city or town) grant to any company desiring to operate within any such city or town any right or privilege to so operate for a longer period than the unexpired term of the franchise or privilege held or enjoyed by any company which at the date of the application to the Board under this section is operating a railway or street railway within the limits of such city or town.

Renewal of  
agreements.

(3) At the expiration of such term a new agreement may be made as to a renewal of the same for a further period

period not exceeding twenty-five years, and in the event of the parties being unable to agree, the Board may in its discretion order a renewal thereof upon such terms and conditions as shall be determined by the Board.

(4) This section shall not be construed to confer upon the Board the power to vary or annul any provision, contained in the agreement between the parties or in the order of the Board, allowing the entrance of such other railway, which grants to the corporation of the city or town interested the right to take over and assume the ownership of such other railway within the limits of such city or town on the expiration of any such term.

Rights of municipality as to taking over railway not affected.

219. Any railway company operating in cities or towns shall, in addition to such terms, conditions, regulations and restrictions as may be contained in any agreement with or by law of the city or town, be subject as to that portion of the railway within the limits of such city or town to the provisions of this Act respecting the construction and operation of street railways.

Application of street railway sections to radial lines.

220. This Act shall not, except where the same is so expressed, be construed to vary or rescind, or to confer upon the Board power to vary or rescind any agreement lawfully entered into between a municipal corporation and a railway or street railway company, or between two or more railway or street railway companies prior to the passing of this Act.

Existing agreements

### *Examination of Motormen.*

221.—(1) No applicant for a position as a motorman on any railway or street railway operated by electricity shall be appointed to such position until he has been subjected to a thorough examination by an examiner or examiners to be approved by the Board as to his habits, physical ability and intelligence. He shall then be placed on a car with an instructor, and when the said examiner is satisfied as to the applicant's capability for the position of motorman, he shall so certify to the Board, and, if appointed, the applicant shall, so far as reasonably possible, first serve on the lines of least travel.

Examination of applicants for position as motorman.

(2) The company shall pay for the services of such examiner.

Company to pay examiner.

### EXAMINATION FOR COLOUR BLINDNESS.

222.—(1) No company shall hereafter employ any person in a position which requires him to distinguish form or colour signals unless such person, within two years next preceding his appointment, has been examined for colour blindness on the distinct colours in actual use as signals on the

Examination as to eyesight.

the company's line of railway, and also as to his eyesight generally, by some competent person to be employed for the purpose by the company and has received a certificate that he is not disqualified for such position by colour blindness, or otherwise in respect of his eyesight, in the colours and forms used on such railway or on railways crossing or connecting with it.

Re-examination.

(2) The company shall cause such employees to be re-examined for colour blindness, and otherwise in respect of their eyesight, at least once in every two years.

When defect can be remedied by glasses

(3) Nothing in this section contained shall prevent the company from continuing in its employment any employee having defective sight in cases where the same can be fully remedied by the use of glasses or by other means satisfactory to the person making the examination.

Penalty.

(4) For violation of the provisions of this section the company shall for each offence be liable to a penalty of one hundred dollars.

Application to street railways

(5) This section shall apply to street railways.

#### ACTIONS FOR DAMAGES.

Limitation of action for damages.

223.—(1) All actions or suits for any damages or injury sustained by reason of the construction or operation of the railway shall be commenced within one year next after the time when such supposed damage is sustained, or if there is continuation of damage within one year next after the doing or committing of such damage ceases, and not afterwards.

Pleadings.

Certain actions excepted.

(2) Nothing in this section shall apply to any action brought against the company upon any breach of contract, express or implied, as to or upon any breach of duty in the carriage of any traffic nor to any action against the company for damages under any section of this Act respecting tolls.

Application to street railways

(3) This section shall apply to street railway companies.

#### AGREEMENTS WAIVING RIGHT TO DAMAGES FOR DEFECTIVE MACHINERY VOID.

Contracts waiving right to damages to employees void.

224.—(1) No company owning or operating a railway or street railway in whole or in part in this Province shall adopt or promulgate any rule or regulation for the government of its servants or employees, or make or enter into any contract or agreement with any person engaged in or about to engage in its service, in which such employee directly or indirectly, promises or agrees to hold such company harmless, on account of any injury he may receive by reason of any accident to, breakage, defect or insufficiency in the cars, motors, locomotives or machinery or attachments thereto belonging, and any such rule, regulation, contract or agreement shall be void and of no effect



effect. And no such company shall demand, accept, require, or enter into any contract or agreement with any person about to enter, or in the employ of the company whereby such person agrees to surrender or waive any right to damages for personal injury or death against any such company thereafter arising; and all such contracts and agreements shall be void.

(2) Every company violating or aiding in the violation of this section shall for each offence be liable to a penalty of five hundred dollars to be recovered in any court of competent jurisdiction by any person suing therefor. Person.

(3) No such company shall knowingly or negligently use or operate any car, motor or locomotive that is defective, or any car, motor or locomotive upon which the machinery or attachments thereto belonging are in any manner defective. Company not to operate defective machinery.

(4) This section shall apply to street railways and street railway companies. Application to street railways.

#### WAGES OF LABOURERS.

225. In every case in which the Legislature has granted or shall grant financial aid by way of subsidy or guarantee towards the cost of railway construction, all mechanics, labourers or other persons who perform labour in such construction shall be paid such wages as are generally accepted as current for competent workmen in the district in which the work is being performed; and if there is no current rate in such district, then a fair and reasonable rate; and in the event of a dispute arising as to what is the current rate in such district, or a fair and reasonable rate, it shall be determined by the Board, whose decision shall be final. Rate of wages of labourers on construction of lines subsidized by Legislature.

#### LIEN FOR WAGES.

226.—(1) Every mechanic, labourer or other person who performs labour for wages upon the construction or maintenance of the railway or the works connected therewith, shall have upon the said railway and other property of the company a lien for such wages not exceeding the wages for thirty days, or a balance equal to his wages for thirty days, and the said lien may be enforced in the manner provided for enforcing liens for wages by *The Mechanics' and Wage Earners' Lien Act*. Lien for wages. Rev. Stat. c. 153.

(2) This section shall apply to street railways.

Application to street railways

#### HOURS OF LABOR.

227. No company operating a line of railway of twenty miles in length or over, shall permit or require a conductor, engineer, motorman, fireman, trainman, despatcher or signal

Limit of duration of continuous employment.

signal man who has worked in any capacity for sixteen consecutive hours, to go again on duty to perform any kind of work, unless he has had at least six hours' rest.

#### RETURNS.

Annual returns to be prepared.

228.—(1) Every company shall annually prepare in accordance with forms which shall from time to time be provided and supplied to the companies by the Board, returns of its capital, traffic and working expenses, and of all information required, as indicated in such forms to be filed with the Board; and such returns shall be dated and signed by, and attested upon the oath of the secretary, of the company, and of the president, or in his absence, of the vice-president or manager of the company.

What period to be included

(2) Such returns shall be made for the period included from the date to which the then last yearly returns made by the company extended, or from the commencement of the operation of the railway, if no such returns have been previously made, and, in either case, down to the last day of December in the preceding year.

Date of returns

(3) Such returns, dated, signed and attested in manner aforesaid shall be forwarded by such company to the Board within three months after the thirty-first day of December in each year.

Further returns when required.

(4) The company shall also, in addition to the information required to be furnished to the Board, as indicated in subsection 1 hereof furnish such other information and returns as are, from time to time, required by the Board or as shall hereafter be ordered by the Legislature.

Returns to be submitted to Legislative Assembly.

(5) The Board shall transmit the returns so made to the Lieutenant-Governor in Council who shall lay the same before the Legislature, within twenty-one days from the commencement of each session thereof.

Return of accidents to be made semi-annually.

229. The company shall, within ten days after the first days of January and July, in each and every year, make to the Board, under the oath of the president, secretary or superintendent of the company, a true and particular return of all accidents and casualties (whether to persons or property) which have occurred on the railway of the company during the half year next preceding each of the said periods respectively, setting forth—

1. The causes and nature of such accidents and casualties;

2. The points at which they occurred, and whether by night or by day;

3. The full extent thereof, and all particulars of the same; and shall also at the same time return a true copy of the existing by-laws of the company, and of their rules and regulations for the management of the company and of the railway.

230. The Board may order and direct, from time to time, the form in which such returns shall be made.

Forms to be appointed by the Commissioner.

231. All such returns relating to accidents made in pursuance of the provisions of this Act shall be privileged communications, and shall not be evidence in any court whatsoever except to enforce the penalties for failure or neglect to furnish such returns as required by this Act.

Such returns to be privileged communications.

232. The Board may, from time to time, by notice served upon the company, or any officer, servant or agent of the company, require it, or such officer, servant or agent to furnish the Board, at or within any time stated in such notice, a written statement or statements showing in so far, and with such detail and particulars, as the Board requires, the assets and liabilities of the company—the amount of its stock issued and outstanding—the date at which any such stock was so issued—the amount and nature of the consideration received by the company for such issue, and, in case the whole of such consideration was not paid to the company in cash, the nature of the service rendered to or property received by the company for which any stock was issued—the gross earnings or receipts or expenditure by the company during any periods specified by the Board, and the purposes for which such expenditure was made—the amount and nature of any bonus, gift, or subsidy, received by the company from any source whatsoever, and the source from which and the time when, and the circumstances under which, the same was so received or given—the bonds issued at any time by the company, and what portion of the same are outstanding and what portion, if any, have been redeemed,—the amount and nature of the consideration received by the company for the issue of such bonds—the character and extent of any liabilities outstanding, chargeable upon the property or undertaking of the company, or any part thereof, and the consideration received by the company for any such liabilities, and the circumstances under which the same were created—the cost of construction of the company's railway or of any part thereof,—the amount and nature of the consideration paid or given by the company for any property acquired by it,—the particulars of any lease, contract or arrangement entered into between the company and any other company or person,—and generally, the extent,

Returns to Board, of assets and liabilities.

Of stock issued and outstanding.

Of earnings and expenditure.

Of bonuses.

Of bonds.

Of secured liabilities.

Of cost of property.

Of cost of acquisitions.

Of leases and contracts.

Generally.

nature,



nature, value and particulars of the property, earnings, and business of the company.

Powers of Board respecting returns.

233. The Board may summon, require the attendance of, and examine under oath, any officer, servant or agent of the company, or any other person, as to any matters included in such return, or which were required by the notice aforesaid to be returned to the Board, and as to any matter or thing which, in the opinion of the Board, is relevant to such return, or to any inquiry which the Board deems it expedient to make in connection with any of the matters in the last preceding section mentioned, and for such purposes may require the production to the Board of any books or documents in control of the company, or of such officer, servant, agent or person.

Or inquiries respecting same.

Production documents.

Refusal to make returns.

234. If any company or officer, servant, or agent thereof wilfully or negligently refuses to make the returns required by this Act or by the Board under the authority thereof when, and as thereunto required by the Board, or fails to make any such return to the utmost of its, or his knowledge or means of knowledge, the company, and every such officer, servant or agent, so in default, shall severally be liable to a penalty not exceeding twenty dollars.

Penalties.

Making false returns to Board.

235. If the company, or any officer, servant, or agent thereof, wilfully or negligently makes any false return, or any false statement in any such return, the company, and any such officer, servant or agent, shall be severally liable to a penalty not exceeding five hundred dollars, and such officer, servant or agent shall also on summary conviction, be liable to imprisonment for any period not exceeding six months in the common jail of the county where such conviction is had.

Application of sections 228-235

236. The sections relating to "Returns," being sections 228 to 235, inclusive, of this Act, shall apply to street railway companies.

#### INVESTIGATION OF ACCIDENTS.

Notice of accident.

237.—(1) Every company shall, as soon as possible, and immediately after the head officers of the company have received information of the occurrence upon the railway belonging to such company of any accident, give notice thereof, with full particulars, to the Board; and every company which wilfully and negligently omits to give such notice shall forfeit to His Majesty the sum of two hundred dollars for every day during which the omission to give the same continues.

Penalty for omission

(2) The Board may by regulation declare the manner and form in which such information and notice shall be given and the class of accidents to which the next preceding subsection shall apply, and may declare any such information so given to be privileged, and the Board may inquire into all matters and things which it deems likely to cause or prevent accidents, and the causes of, and the circumstances connected with, any accident or casualty to life or property occurring on any railway, and into all particulars relating thereto.

Form of notice and investigation into accidents.

(3) The Board may order the company to suspend or dismiss any employee of the company whom it may deem to have been wilfully negligent in respect of any such accident.

Report.

(4) The Board shall include in their annual report to the Lieutenant-Governor in Council, the result of any such enquiry with such recommendations as to it may seem proper.

Result of enquiry to be reported to Government.

(5) This section shall apply to street railway companies.

Application to street railways.

#### ANIMALS AT LARGE.

238.—(1) No horses, sheep, swine or other cattle shall be permitted to be at large upon any highway, within half a mile of the intersection of such highway with any railway at rail-level, unless such cattle are in charge of some competent person or persons, to prevent their loitering or stopping on such highway at such intersection, or straying upon the railway.

Cattle not allowed at large near railway.

(2) All cattle found at large contrary to the provisions of this section may, by any person who finds the same at large be impounded in the pound nearest to the place where the same are so found, and the pound-keeper with whom the same are impounded shall detain the same in the like manner, and subject to like regulations as to the care and disposal thereof, as in the case of cattle impounded for trespass on private property.

May be impounded.

(3) If the cattle of any person, which are at large contrary to the provisions of this section, are killed or injured by any train, at such point of intersection, he shall not have any right of action against any company in respect of the same being so killed or injured.

Right of action negatived.

(4) This section shall apply only to railways where operating either by steam or electricity upon a right of way owned by the company.

Application of section.

## OFFENCES AND PENALTIES.

Purchasing  
stock in other  
companies.

239.—(1) No company shall, either directly or indirectly, employ any of its funds in the purchase of its own stock or in the acquisition of any shares, bonds or other securities issued by any other railway company in Canada; but this shall not affect the powers or rights, if any, which any company in Ontario now has or possesses by virtue of any special Act to acquire, have or hold shares, bonds or other securities of any railway company in Canada or the United States.

Liability of  
directors.

(2) Every director of a railway company, who knowingly permits the funds of any such company to be applied in violation of this section, shall incur a penalty of one thousand dollars for each such violation, which penalty shall be recoverable on information filed in the name of the Attorney-General of Ontario; and a moiety thereof shall belong to His Majesty, and the other moiety thereof shall belong to the informer, and the acquisition of each share, bond or other security, or interest, as aforesaid, shall be deemed a separate violation of the provisions aforesaid.

Walking on  
track  
prohibited.

240.—(1) Every person not connected with the railway, or employed by the company, who walks along the track thereof, except where the same is laid across or along a highway, is liable on summary conviction to a penalty not exceeding ten dollars.

Destruction  
of fences,  
bridges, etc.

Defacing  
notices, etc.

(2) Every person who wilfully breaks down, injures, weakens or destroys any gate, fence, erection, building or structure of a company, or removes, obliterates, defaces or destroys any printed or written notice, direction, order, by-law or regulation of a company, or any section of, or extract from this Act or any other Act of the Legislature, which a company or any of its officers or agents have caused to be posted, attached or affixed to or upon any fence, post, gate, building or erection of the company, or any car upon any railway, shall be liable on summary conviction to a penalty not exceeding fifty dollars, or, in default of payment, to imprisonment for a term not exceeding two months.

Penalty.

Fraudulently  
attempting to  
travel without  
paying fare.

Obstructing  
railway  
authorities.

Trespassing.

(3) Every person who enters upon any railway train with intent fraudulently to be carried upon the said railway train without paying fare thereon, or who wilfully obstructs or impedes any officer or agent of the company in the execution of his duty upon any train, railway, or upon any of the premises of the company, or who wilfully trespasses by entering upon any of the stations, cars or buildings of the company in order to occupy the same for his own purposes, shall be liable to the like penalty or imprisonment, and shall be liable to be proceeded against and dealt with

in



in like manner, as mentioned in subsection 2 of this section in regard to the offences therein mentioned. Penalties.

241.—(1) If the Board orders any company to erect, at or near, or in lieu of, any highway crossing at rail level, a foot bridge, or foot bridges, over its railway, for the purpose of enabling persons, passing on foot along such highway, to cross the railway by means of such bridge or bridges, from and after the completion of such foot bridge or foot bridges so required to be erected, and while the company keeps the same in good and sufficient repair, such crossing shall not be used by foot passengers on the said highway, except during the time when the same is used for the passage of carriages, carts, horses or cattle along the said road. Board may order foot-bridges erected at level crossings.  
Subsequent use of highway crossing.

(2) Every person who offends against the provisions of this section is liable, on summary conviction to a penalty not exceeding ten dollars. Penalty for non-compliance.

242. Every company which shall erect, operate or maintain any bridge, approach, tunnel, viaduct, trestle, or any building, erection or structure, in violation of this Act, or of any order or regulation of the Board, shall for each offence incur a penalty of fifty dollars. Penalty for erection, etc., of structures in violation of this Act.

243. The company, or any director or officer thereof, or any receiver, trustee, lessee, agent, or person, acting for or employed by the company, doing, causing or permitting to be done, any matter, act or thing contrary to the provisions of this or the special Act, or to the orders or directions of the Board made hereunder, or omitting to do any matter, act or thing required to be done on the part of any such company, or person, is liable to any person injured thereby for the full amount of damages sustained by such act or omission; and if no other penalty is, in this or the special Act, provided for any such act or omission, is liable, for each offence, to a penalty of not less than twenty dollars, and not more than five thousand dollars, in the discretion of the court before which the same is recoverable. Liability of company, directors, etc., in certain cases.  
Damages.  
Penalty.

244. Every person who sells, gives or barter any spirituous or intoxicating liquor to or with any servant or employee of any company, while actually employed in the course of his duty on a train or car or while in uniform or in connection with the operation of a train or car, is liable on summary conviction to a penalty not exceeding twenty-five dollars, or to imprisonment with or without hard labour for a period not exceeding one month, or to both. Selling liquor to railway employees on duty.

245. Every person who is intoxicated while he is in charge of a locomotive engine, or electric motor, or acting as the conductor Employees intoxicated while on duty.

conductor of a car or train of cars, shall be liable on summary conviction to a penalty of \$200 or imprisonment for one year or both.

Violation by employees, of by-laws, etc., punishable in certain cases.

Penalty.

246. Every officer or servant of, and every person employed by the company, who wilfully or negligently violates any by-law, rule or regulation of the company or its directors lawfully made and in force, or any order or notice of the Board, or of an inspecting engineer, of which a copy has been delivered to him, or which has been posted up or open to his inspection in some place where his work or his duties, or any of them, are to be performed, if such violation causes injury to any person or to any property, or exposes any person or any property to the risk of such injury, or renders such risk greater than it would have been without such violation, although no actual injury occurs is liable on summary conviction to a penalty of not less than \$5 and not more than \$50 or to imprisonment with or without hard labour for not more than three months or to both.

Violation of by-laws, etc., by other persons.

Proviso as to posting by-law, etc.

247. Every person who wilfully or negligently violates any lawful by-law, rule or regulation of the company is liable, on summary conviction, for each offence, to a penalty not exceeding the amount therein prescribed, or if no amount is so prescribed, to a penalty not exceeding twenty dollars; but no such person shall be convicted of any offence, unless at the time of the commission thereof a printed copy of such by-law, rule or regulation was posted in some conspicuous place at or near the station at which the offender entered the train or in the passenger cars of the train.

Damaging freight with intent to steal contents.

248. Every person who unlawfully and maliciously,

(a) bores, pierces, cuts, opens or otherwise injures any cask, box or package, which contains wine, spirits or other liquors, or any case, box, sack, wrapper, package or roll of goods, in, or about any car, wagon, boat, warehouse, station house, wharf, quay or premises of, or which belong to any company, or—

Drinking or wasting liquor.

Penalties.

(b) drinks or wilfully spills or allows to run to waste any such liquors, or any part thereof,—

is liable, on summary conviction, to a penalty not exceeding twenty dollars over and above the value of the goods or liquors so taken or destroyed, or to imprisonment, with or without hard labour, for a term not exceeding one month, or to both.

Interfering with electric wires, poles, etc., or notices.

(c) Any person who wilfully breaks down, injures, weakens, destroys or interferes with any pole, wire, insulator, structure or erection for carrying wires of an electric rail-

way

way company, or for the transmission of electric power, or who shoots at any insulator on any such poles, erections or structures, with fire-arms of any kind, or throws stones or other missiles at, or breaks, or attempts to break the same in any way, or flings or causes to be placed any wire, rope, string or stick at, upon or across the said wires, or without authority climbs any of such poles or structures or erections used for transmitting electric current, or removes, obliterates, defaces or destroys any printed or written notice, direction, order, by-law or regulation of the Lieutenant-Governor in Council or of any commission appointed by him or of a company or of a municipal corporation or any section or extract from this Act or any other Act of the Legislature pasted, attached or affixed to or upon any pole, tower, fence, post, gate, building or erection of the company, shall be liable on summary conviction to a penalty not exceeding \$100 and not less than \$15, or in default of payment to imprisonment for a term not exceeding six months.

249. When the violation of, or failure to comply with, any provisions of this Act, or any regulation or order or direction of the Board, or of any inspecting engineer, is made an offence subject to penalty, by this Act, or by any regulation made under this Act, each day's continuance of such violation, or failure, to comply, shall constitute a new and distinct offence.

Each day's violation of this Act, or order hereunder, a distinct offence.

250. For the purpose of enforcing any penalty under any of the provisions of this Act, or enforcing any regulation, order, or direction of the Board, or of any inspecting engineer, made under this Act, the act, omission, or failure of any officer, agent, or other person acting for, or employed by the company acting within the scope of his employment shall in every case be also deemed to be the act, omission or failure of such company as well as that of the person; and anything done or omitted to be done by the company, which, if done or omitted to be done by any director, or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by the company, would constitute an offence under this Act, shall also be held to be an offence committed by such company, and upon conviction thereof the company shall be subject to the like penalties as are prescribed by this Act with reference to such persons.

Act or omission of officer, etc., deemed to be act or omission of Company.

Certain penalties may be imposed on summary convictions.

Recovery of penalties.

251. No punishment for a contravention of this Act or of the special Act, by the company, shall exempt the company from the forfeiture of the privileges or franchise conferred on it by the said Acts or by any agreement made between the company and any municipal corporation if by the provisions thereof, or by law, the same be forfeited by such contravention.

Punishment for contravention of this Act, etc., not to exempt company from forfeiture.



Sections 239-251  
to apply to  
street railways.

**252.** The sections of this Act relating to offences and penalties, being sections 239 to 251 inclusive, shall so far as applicable apply to street railways and street railway companies.

#### RECOVERY AND PAYMENT OF PENALTIES.

The Company  
may pay pen-  
alty and de-  
duct from  
wages.

**253.** The company may in all cases under this Act pay the amount of any penalty and costs imposed upon an officer, servant, or person in the employ of the company, and recover the same from the offender or deduct it from his salary or pay.

How penalties  
recovered and  
applied.

**254.** All penalties incurred under any of the sections of this Act, unless otherwise provided, may be recovered in the name of His Majesty, by His Majesty's Attorney General for Ontario, in any court of competent jurisdiction; and all penalties recovered under this Act shall, unless otherwise herein expressly provided, be paid to the Treasurer of the Province to the credit of "The Consolidated Revenue Fund."

Application to  
street railways.

**255.** The last preceding two sections shall apply to street railway companies.

#### TRANSMISSION OF POWER ON RIGHT OF WAY.

Crown may  
use right of  
way for the  
transmission of  
power to muni-  
cipalities.

**256.** The Board, upon receiving instructions in that behalf from the Lieutenant-Governor in Council, and the officers, agents and servants of the Board, may at all times enter upon the right of way of the company and may dig up the same, erect thereon all necessary poles, or lay all necessary conduits, and erect, place and put down all cables, wires and poles for the transmission of electrical or other power from any point in the Province of Ontario to the works and plant of any municipal corporation for the distribution of such power within the limits of the municipality; provided that the track and traffic, wires and poles of the company shall not be injured, removed or otherwise dealt with in the exercise of the powers hereby conferred except under and subject to any agreement which may be entered into between the Lieutenant-Governor in Council and the company.

#### USE OF RAILWAY BY DOMINION GOVERNMENT.

Provision as to  
the carriage of  
His Majesty's  
mail, etc.,

**257.**—(1) His Majesty's Mail, His Majesty's Naval or Military Forces or Militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables and others travelling on His Majesty's service, shall at all times, when thereunto required by His Majesty's Postmaster-General, the Commander of the Forces,

or

or any person having the superintendence or command of any Police Force, and with the whole resources of the company if required, be carried on the railway, on such terms and conditions, and under such regulations as may be made by the Governor-General in Council or Lieutenant-Governor in Council as the case requires.

(2) The Governor-General or Lieutenant-Governor as the case may be, or any person thereunto authorized by them, may require the company to place any electric telegraph, and the apparatus and operators they may have, at the exclusive use of the Government, receiving thereafter reasonable compensation for such service.

Government  
to have exclu-  
sive use of  
telegraph.

(3) This section shall apply to street railway companies.

Application to  
street railways

#### CONVEYANCES OF LAND.

258.—(1) Conveyances of land to the company, for the purposes of and powers given by this Act, made in the form set forth in Schedule "B" to this Act or to the like effect, shall be sufficient conveyance to such company, its successors and assigns of the estate or interest therein mentioned, and sufficient bar of dower respectively of all persons executing the same; and such conveyances shall be registered in the same manner, and upon such proof of execution as is required under the registry laws of Ontario; and no registrar shall be entitled to demand more than seventy-five cents for registering the same, including all entries and certificates thereof, and the certificates indorsed on the duplicates thereof.

Conveyances  
of land to  
Company.

(2) This section shall apply to street railway companies.

Application to  
street railways

#### REPEAL OF ACTS.

259. The following Acts of the Legislative Assembly are hereby repealed:—

Repeal of Acts.

Chapter 207 of the Revised Statutes of Ontario, "*The Railway Act of Ontario*"—the whole.

Chapter 208 of the Revised Statutes of Ontario, "*The Street Railway Act*"—the whole.

Chapter 209 of the Revised Statutes of Ontario, "*The Electric Railway Act*"—the whole.

Chapter 11 of 62 Victoria, 2nd session—section 23.

Chapter 25 of 62 Victoria, 2nd session—the whole.

Chapter 31 of 63 Victoria—the whole.

Chapter 25 of 1 Edward VII.—the whole.

Chapter 26 of 2 Edward VII.—the whole.

Chapter 27 of 2 Edward VII.—the whole.

Chapter 17 of 3 Edward VII.—the whole.

Chapter 10 of 4 Edward VII—section 79.

260. This Act shall come into force on the first day of June, 1906.

Commence-  
ment of Act.

#### SCHEDULE "A"

### SCHEDULE "A."

(Section 145.)

### CHIEF ENGINEER'S CERTIFICATE.

The \_\_\_\_\_ Railway Company's Office, No. \_\_\_\_\_  
A.D. 190 \_\_\_\_\_.

## ENGINEER'S DEPARTMENT.

Certificates to be attached to cheques drawn on The  
Railway Company Municipal Trust Account given  
under section 145 of *The Ontario Railway Act, 1906.*

I, \_\_\_\_\_, chief engineer of The \_\_\_\_\_ Railway Company do hereby certify that the said company has fulfilled the terms and conditions necessary to be fulfilled under the said By-law No. \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_ (or under the agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between the corporation of \_\_\_\_\_ and the company) to entitle the said company to receive from the said trust company the sum of \_\_\_\_\_ (here set out the terms and conditions, if any, which have been fulfilled).

### SCHEDULE "B."

(Section 258.)

Know all men by these presents that I (or we) *(insert the name or names of the vendor or vendors)* in consideration of \_\_\_\_\_ dollars paid to me (or us) by The \_\_\_\_\_ Railway Company, the receipt whereof is hereby acknowledged, do grant and convey unto the said company, and I (or we) *(insert the name or names of any other party or parties)* in consideration of \_\_\_\_\_ dollars paid to me (or us) by the said company, the receipt whereof is hereby acknowledged, do grant and release all that certain parcel (or those certain parcels, *as the case may be*) of land *(describe the land)* the same having been selected and laid out by the said company for the purposes of its railway, to hold with the appurtenances unto the said The \_\_\_\_\_ Railway Company, their successors and assigns forever *(here insert any other clauses, covenants and conditions required)*, and I (or we) the wife (or wives) of the said \_\_\_\_\_ do hereby bar my (or our) dower in the said lands.

As witness my (or our) hand and seal (or hands and seals), this  
day of one thousand nine  
hundred and

Signed, sealed and delivered  
in the presence of

[L.S.]



## CHAPTER 31.

### An Act for the appointment of a Railway and Municipal Board.

*Assented to 14th May, 1906.*

SHORT TITLE, s. 1.  
 INTERPRETATION, ss. 2, 3.  
 APPLICATION OF ACT, s. 3.  
 CONSTITUTION, OFFICES, SIT-  
 TINGS, ss. 4-12.  
 SECRETARY, s. 13.  
 SALARIES AND STAFF, ss. 14, 15.  
 GENERAL JURISDICTION AND POW-  
 ERS, ss. 16-25.  
 May act upon its own initia-  
 tive, s. 18.  
 Rules and Regulations, ss. 19-  
 21.  
 Notices, how given, s. 23.  
 Duty of Company on receipt  
 of order, s. 24.  
 Sheriffs, etc., to obey orders of  
 Board, s. 25.  
 PRACTICE AND PROCEDURE, EVI-  
 DENCE, ss. 26-42.  
 Existing orders of Railway  
 Committee, s. 32.  
 Powers of Railway Committee  
 until Board organized, s. 33.  
 Orders of Board may be made  
 orders of Court, s. 34.  
 Terms of Orders, ss. 35-38, 40.  
 General rules of practice, s. 39.  
 Judgments of other courts not  
 to bind Board, s. 41.

Stating case for Court of Ap-  
 peal, s. 42.  
 APPEALS, s. 43.  
 REFERENCE OF MATTERS TO BOARD  
 OF GOVERNMENT, s. 44.  
 COSTS, s. 45.  
 EXPENSE OF WORKS ORDERED BY  
 BOARD, s. 46.  
 PROCEEDINGS INSTITUTED BY AT-  
 TORNEY-GENERAL, s. 47.  
 BOARD MAY ORDER ENQUIRIES, ss.  
 48, 49.  
 WITNESS FEES, s. 50.  
 ADDITIONAL POWERS, ss. 51-54.  
 Assessment Appeals, ss. 51, 52.  
 Municipal matters, ss. 53-57.  
 Regulating electrical compan-  
 ies, s. 54.  
 ENQUIRIES INTO FACTS FOR GOV-  
 ERNMENT, ETC., s. 55.  
 ANNUAL REPORT, s. 56.  
 LABOUR DISPUTES, ss. 58, 59.  
 FEES AND EXPENSES, ss. 60-62.  
 ENFORCEMENT OF AGREEMENT BE-  
 TWEEN COMPANIES AND MUNICI-  
 PALITIES, ss. 63, 64.  
 PENDING PROCEEDINGS, s. 65.  
 COMMENCEMENT OF ACT, s. 66.

**H**IS MAJESTY, by and with the advice and consent  
 of the Legislative Assembly of the Province of  
 Ontario, enacts as follows:—

1. This Act may be cited as "*The Ontario Railway and* Short title  
*Municipal Board Act, 1906.*"

2. The interpretation sections of "*The Ontario Railway* Interpretation.  
*Act, 1906,*" shall apply to this Act.

To apply to  
street railways.

3.—(1) All the provisions of this Act relating to railways shall apply to all railways, whether operated by steam, electricity or other motive power, including Street Railways; and the expression "Railway" shall include "a Street Railway."

"Public utility."

(2) "Public Utility" shall mean and include any water works, gas works, electric heat, light and power works and telegraph or telephone lines or any similar works supplying the general public with necessities or conveniences.

#### NAME, CONSTITUTION, DUTIES, ETC.

Railway  
Committee  
abolished.

4.—(1) From and after the appointment of the Board the Railway Committee of the Executive Council of Ontario shall be abolished.

Appointment  
of Commission.

(2) The Lieutenant-Governor may from time to time appoint a Commission to be called "The Ontario Railway and Municipal Board."

Constitution of  
Board.

(3) Such Board shall be composed of three members, one of whom shall be the chairman thereof who shall be appointed chairman by the Lieutenant-Governor in Council and shall continue to be chairman so long as he is a member of the Board.

Vacancies.

(4) Vacancies caused by death, resignation or otherwise may from time to time be filled by the Lieutenant-Governor in Council.

Board to have  
powers of  
Court of  
Record.

(5) The Board shall have all the powers of a Court of Record and shall have an official seal which shall be judicially noticed.

Tenure of  
office.

(6) Each member of the Board shall hold office during pleasure.

Powers, etc.,  
of Railway  
Committee  
transferred to  
Board.

(7) Whenever any power or authority is given or duty imposed upon the Railway Committee of the Executive Council of Ontario by any Act or document, such power, authority or duty may or shall, as the case may be, be exercised by the Board.

Power of Vice-  
Chairman.

8. In case of the absence of the Chairman, or of his inability to act, the Vice-Chairman shall exercise the powers of the Chairman in his stead; and in such case all regulations, orders and other documents signed by the Vice-Chairman shall have the like force and effect as if signed by the Chairman. Whenever the Vice-Chairman appears

appears to have acted for and instead of the Chairman; it shall be conclusively presumed that he so acted in the absence or disability of the Chairman within the meaning of this section.

6. Not less than two members shall attend at the Quorum. hearing of every case and the Chairman, when present, shall preside, and his opinion upon any question, which in his opinion is a question of law, shall prevail. In any case where there is no opposing party, and no notice to be given to any interested party, any one member may act alone for the Board.

7. Whenever any member is interested in any mat- Appointments pro hac vice. ter before the Board, the Lieutenant-Governor in Council may, either upon the application of such member or otherwise, appoint some disinterested person to act as member before the Board, the Lieutenant-Governor in Council also appoint a member *pro hac vice* in the case of sickness, absence or inability to act, of any member.

8.—(1) No member shall, directly or indirectly, hold, Members of Board not to be hold railway stock, etc. purchase, take or become interested in, for his own behalf, any stock, share, bond, debenture or other security, of any railway company, street railway company or public utility subject to this Act or the said Act nor shall, directly or indirectly, have any interest in any device, appliance, machine, patented process or article, or any part thereof, which may be required or used as a part of the equipment of railways or of street railways, or of any rolling stock to be used thereon; and, if any such stock, share, bond or other security, device, appliance, machine, patented process or article, or any part thereof, or any interest therein, shall come to, or vest in any such member by will or succession, for his own benefit, he shall, within three calendar months after the same shall so come to, or vest in him, absolutely dispose of the same, or his interest therein.

(2) No member shall act as an officer or director of Members of Board not to be officers or directors of certain companies. any public utility or of any company that has power to invest any portion of its funds in the securities of a railway company, street railway company, or public utility company.

9. The members shall devote the whole of their Members to give whole time to work of Board. time to the performance of their duties under this Act, and shall not accept or hold any office or employment inconsistent with this section.



Offices at  
Toronto.

10. The Lieutenant-Governor in Council shall provide within the City of Toronto, a suitable place in which the sessions of the Board may be held, and also suitable offices for the members, Secretary, staff and other employees, and all necessary furnishings, stationery and equipment for the establishment, conduct and maintenance of the same, and for the performance of the duties of the Board.

Sittings of  
Board.

11. The members shall sit at such times and places and conduct their proceedings in such manner as may seem to them most convenient for the speedy despatch of business; they may, subject as in this Act or in the said *Ontario Railway Act, 1906*, mentioned, sit either together or separately, and either in private or in open court, but any complaint made to them shall, on the application of any party to the complaint, be heard and determined in open court.

Use of court  
house.

12.—(1) In case sittings of the Board or of any member thereof are appointed to be held in any city, town or place in which a Court House is situated, the member presiding at any such sittings, shall have, in all respects the same authority as a Judge of the High Court in regard to the use of the Court House and other buildings or apartments set apart in the county for the administration of justice.

Use of town  
hall.

(2) In case sittings of the Board or of any member thereof are appointed to be held in any municipality in which there is a Hall belonging to the municipality but no Court House, the municipality shall allow such sittings to be held in such Hall.

Secretary.

13.—(1) There shall be a Secretary of the Board, who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure.

(2) It shall be the duty of the Secretary—

Duties of  
Secretary.

(a) To attend all sessions of the Board, to keep a record of all proceedings conducted before the Board or any member under this Act, to have the custody and care of all records and documents belonging or appertaining thereto or filed in his office, and to obey all rules and directions which may be made or given by the Board touching his duties or the governance of his office.

(b)

- (b) To have every regulation and order made by the Board, drawn pursuant to the direction of the Board, signed by the Chairman, sealed with the official seal of the Board, and filed in the office of the Secretary. Regulations and orders of the Board.
- (c) To keep in his office suitable books of record, in which he shall enter a true copy of every such regulation and order and every other document which the Board may require to be entered therein, and such entry shall constitute and be, and in all courts be deemed and taken to be, the original record of any such regulation or order. Record books.  
Evidence.
- (d) Upon application of any person, and on payment of such fees as are authorized by this Act or as the Board may prescribe, the Secretary shall deliver to such applicant a certified copy of any such regulation or order. Certified copies of regulations or orders.
- (e) In the absence of the Secretary from sickness or any other cause, the Board may appoint an Acting Secretary, who shall thereupon act in the place of the Secretary, and exercise his powers. Acting Secretary.
- (f) A member of the Board may act as secretary.

14. The Chairman shall be paid an annual salary of not more than \$6,000, and the other two members shall be paid each an annual salary of not more than \$4,000. The Secretary shall receive a salary to be fixed by the Lieutenant-Governor in Council of not more than \$2,000 annually. Salaries.

15.—(1) The Lieutenant-Governor in Council may from time to time, upon the request of the Board, appoint one or more experts, or persons having technical or special knowledge of the matters in question, to assist in an advisory capacity in respect of any matter before the Board. Experts.

(2) There shall be attached to the Board such officers, clerks, stenographers and messengers, as the Board, with the approval of the Lieutenant-Governor in Council, from time to time may appoint, at such salaries or remuneration as are recommended by the Board and approved by the Lieutenant-Governor in Council. The Board may, at will, dismiss any such employee. Staff of Board.  
Salaries.

(3) Whenever the Board, by virtue of any power vested in it by this Act, or the said Act, appoints or directs any person Payment of appointee to make inquiry.

person, other than a member of the staff of the Board, to perform any service required by this Act, or the said Act, such person shall be paid therefor such sum for services and expenses as the Lieutenant-Governor in Council upon the recommendation of the Board, may, in such cases, determine.

Salaries and expenses of staff, &c., how to be paid.

(4) The salaries or remuneration of all such officers, clerks, stenographers, messengers, and appointees and all the expenses of the Board incidental to the carrying out of this Act and the said Act, including all actual and reasonable travelling expenses of the members, Secretary, and of such appointees or persons on the staff of the Board as may be required by the Board, to travel, necessarily incurred in attending to the duties of their office, shall be paid monthly out of such moneys as may be voted by the Legislature for that purpose.

#### JURISDICTION AND GENERAL POWERS.

Jurisdiction of Board upon application.

16. The Board shall have all the powers and authority vested in it by "*The Ontario Railway Act, 1906*," and shall also have full jurisdiction to inquire into, hear and determine any application by or on behalf of any party interested;

Neglect of duties under any act, regulation, order or agreement.

(a) complaining that the company, or any person or Municipal Corporation, has failed to do any act, matter or thing required to be done by this Act or the said Act or the Special Act, or by any regulation, order or direction made thereunder, by the Lieutenant-Governor in Council, the Board, or by any inspecting engineer, or by any agreement entered into by the company with any Municipal Corporation, or has done or is doing any act, matter or thing contrary to, or in violation of, this Act, or the said Act, or the Special Act, or any such regulation, order or direction, or any such agreement,—

Giving orders, directions or approval.

(b) requesting the Board to make any order, or give any direction, sanction or approval, which by law it is authorized to make or give.

Mandatory order.

17.—(1) The Board may order and require any company or person or Municipal Corporation to do forthwith, or within, or at any specified time, and in any manner prescribed by the Board, so far as is not inconsistent with this Act or the said Act, any act, matter or thing which such company or person or Municipal Corporation is or may be required to do under this Act or the said Act, or the Special Act, or any such regulation, order, direction or agreement, and may forbid the doing or continuing of any act, matter or thing which is contrary to this Act or the said Act

Injunction order.

Act

Act, or the Special Act, or any such regulation, order, direction or agreement, and shall have full jurisdiction to hear and determine all matters whether of law or of fact, and shall, as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of its jurisdiction under this Act, or the said Act, or otherwise for carrying this Act or the said Act or the Special Act, or any such regulation, order, direction or agreement into effect, have all such powers, rights and privileges as are vested in the High Court of Justice.

Questions of law and fact.

All powers of a High Court.

(2) The decision of the Board upon any question of fact, and as to whether any company, municipality or person is, or is not, a party interested within the meaning of this section, shall be binding and conclusive upon all companies and persons, and Municipal Corporations, and in all courts.

Decision upon questions of fact or whether party is interested conclusive.

(3) The Board shall have exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by the special Act or by the said Act, and save as herein otherwise provided no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court.

Exclusive jurisdiction.

18.—(1) The Board may, of its own motion, or shall, upon the request of the Lieutenant-Governor in Council, inquire into, hear and determine any matter or thing which, under this Act or the said Act, it may inquire into, hear and determine upon application or complaint, and with respect thereto shall have and may exercise the same powers as, upon any application or complaint, are vested in it by this Act or the said Act.

Board may act upon its own motion.

(2) Any power, or authority vested in the Board under this Act or the said Act may, though not so expressed in this Act or the said Act, be exercised from time to time, or at any time, as the occasion may require.

Power to act from time to time.

19.—(1) Without thereby limiting the powers and authority of the Board under this Act or the said Act, the Board may make orders and regulations:

Board may make regulations respecting—

(a) with respect to the method and means of passing from one car to another, either inside or overhead, and for the safety of employees while passing from one car to another, and for the coupling of cars;

Passing from car to car.

Coupling of cars.

(b) requiring proper shelter to be provided for all employees when on duty;

Shelter for employees.

(c) with respect to the use on any steam engine, of nettings, screens, grates and other devices, and the use on any steam engine or car, of any appliances and precautions, and, generally, in connection with the railway

Devices to avoid fires.

respecting



respecting the construction, use and maintenance of any fire-guard or works which may be deemed by the Board necessary and most suitable to prevent, as far as possible, fires from being started, or occurring, upon, along, or near the right of way of the railway;

For protection generally.

(d) with respect to the rolling stock, apparatus, cattle-guards, fenders, appliances, signals, methods, devices, structures and works, to be used upon the railway, so as to provide means for the due protection of property, the employees of the company, and the public;

Other matters.

(e) with respect to any matter, act or thing which by this Act or the said Act or the Special Act is sanctioned, required to be done, or prohibited.

Application of orders.

(2) Any such orders or regulations may be made to apply to any particular district, or any railway or section, or portion thereof, and the Board may exempt any railway or portion thereof, from the operation of any such order or regulation, for such time, or during such period, as the Board deems expedient.

Penalties.

(3) The Board may provide penalties, when not already provided in this Act or the said Act, to which every company or person or Municipal Corporation who offends against any regulation made under this section shall be liable, which shall not exceed one hundred dollars for each offence. The imposition of any such penalty shall not lessen or affect any other liability which any company or person or Municipal Corporation may have incurred.

Power to review, etc.

(4) The Board may review, rescind, change, alter or vary any rule, regulation, order or decision made by it, whether previously published or not.

Default in obeying order, Board may direct work to be done by others and expense to be paid by defaulter.

20. In case default shall be made in the doing of any act, matter or thing, which the Board may direct to be done by the company or person or Municipal Corporation who is required to do the same, the Board may authorize such person as they may see fit to do the act, matter or thing, and in every such case the person so authorized may do such act, matter or thing, and the expense incurred in the doing of the same may be recovered from the company or person or Municipal Corporation in default as money paid for and at the request of such company or person, and the certificate of the Board of the amount so expended shall be conclusive evidence thereof.

Application of regulations to railway companies.

21. All orders or regulations under section 19 hereof may be made to apply to any railways whether operated by steam, electricity or other motive power and to street railways; provided always that no such order or regulation shall increase, or extend, lessen or impair any obligations or duty resting upon, or any privilege or franchise enjoyed by the company under the Special Act or under any agreement.

22. The Board shall also have power to enforce its orders Enforcing orders of Board. and directions in like case and in the manner and by the means provided in section 63 of this Act.

23.—(1) Any notice required to be given to the com- Method of giving notices.pany, or to any company, municipality, corporation, co-partnership, firm or individual may be, and shall be deemed to be sufficiently given or served by delivering the same, or a copy thereof;

(a) in the case of the company, to the president, vice- To railway companies.president, managing director, secretary or superintendent of the company, or to some adult person in the employ of the company at the head or any principal office of the company;

(b) in the case of any municipality, to the mayor, war- To municipa-  
lities, etc.den, reeve, treasurer, or clerk;

(c) in the case of any other company, or body corporate, To other companies.to the president, vice-president, manager or secretary, or to some adult person in the employ of the company at the head office of such company;

(d) in the case of any firm or co-partnership, to any To firms.member of such firm or co-partnership, or left at the last place of abode of any such member with any adult member of his household, or at the office or place of business of the firm with a clerk employed therein:

(e) and, in the case of any individual, to him, or left at To individuals.his last place of abode with any adult member of his household, or at his office or place of business with a clerk in his employ;

Provided that such notice is sufficient in substance, is Proviso.given in sufficient time, and, in the case of the Board, is signed by the Secretary or Chairman; in the case of the inspecting engineer or other officer or person appointed by the Board, and required or authorized to give such notice, is signed by such inspecting engineer, officer or other person as the case may be; and in the case of any company or corporation is signed by its president or secretary, or by its duly authorized agent or solicitor: and in the case of any person, is signed by such person, or his duly authorized agent or solicitor.

(2) When in any of the cases mentioned in this section, it shall be made to appear to the satisfaction of the Board in any matter within the jurisdiction of the Board under this Act or the said Act that service of such notice cannot be made in the manner provided in this section, or that the person to be served cannot be served, or that the company or person to be served is seeking to evade service and therefore cannot be served, the Board may order and allow such service to be made by the publication of such notice for any period not less than three weeks in the *Ontario Gazette*, and also, if required, in any other newspaper or newspapers, and Service by publication in certain cases. service

service by such publication shall be deemed to be as sufficient as if the same had been served in the manner provided in subsection 1 of this section.

Service of orders, reports or other documents.

(3) Any regulation, order, direction, decision, report or other document may, unless in any case otherwise provided, be served in like manner as notice may be given under this section.

Duty of company on receipt of notice or order.

24. The company shall, as soon as possible after the receipt by it, or service upon it, of any regulation, order, direction, decision, notice, report or other document of the Board, or of the inspecting engineer, give cognizance thereof to each of its officers and servants performing duties which are or may be affected thereby, by delivering a copy to him or by posting up a copy thereof in some place where his work or his duties, or some of them, are to be performed.

Sheriffs, etc., to obey orders of Board.

25. Sheriffs, Deputy Sheriffs, Constables and other peace officers shall aid, assist and obey the Board in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the Secretary be paid by the county or counties interested, like fees as for similar services at the sittings of the High Court for the trial of causes.

#### PRACTICE AND PROCEDURE.

Evidence of documents.

26. Every document purporting to be signed by the Chairman and Secretary, or by either of them, or by the inspecting engineer, shall, without proof of any such signature, be *prima facie* evidence in all courts, and shall be sufficient notice to the company and all parties interested, (if served therewith in the manner herein provided for service of notice), that such document was duly signed and issued by the Board, or inspecting engineer as the case may be; and if such document purports to be a copy of any regulation, order, direction, decision or report, made or given by the Board, or inspecting engineer, it shall be *prima facie* evidence in all courts of such regulation, order, direction, decision or report, and when served on the company, or any person, in the manner in section 23 provided for service of notice, shall be sufficient notice to the company or such person, of such regulation, order, direction, decision or report from the time of such service.

Service of copies.

Certified plan, etc., *prima facie* evidence.

27.—(1) Any document purporting to be certified by the Secretary as being a copy of any plan, profile, book of reference or any other document deposited with the Board, or of any portion thereof, shall, without proof of signature of the Secretary, be in all courts *prima facie* evidence of such original document, and that the same is so deposited, and is signed, certified, attested or executed by the persons by whom and in the manner in which, the same purports



purports to be signed, certified, attested or executed, as shown or appearing from such certified copy, and also, if such certificate states the time such original was so deposited, that the same was deposited at the time so stated.

(2) A copy of any regulation, order or other document in the custody of the Secretary, or of record with the Board, certified by the Secretary to be a true copy, and sealed with the seal of the Board, shall, in all courts and for all purposes, be *prima facie* evidence of such regulation order or document, without proof of signature of the Secretary.

Certified copies  
of documents  
of Board.

28. Publication by the Board, or by leave of the Board, for three weeks in the *Ontario Gazette* of any rule, regulation, order or decision of the Board, shall be sufficient notice thereof to the company, to all persons, and to the public generally; and when such rule, regulation, order or decision, is so published, the same, while in force, shall have the like effect as if enacted herein, and all courts, shall take judicial notice thereof.

Publication of  
regulations  
and orders.

Judicial  
notice.

29. Except in any case where it is otherwise provided, ten days' notice of any application to the Board, or of any hearing by the Board, shall be sufficient, unless in any case the Board directs longer notice. The Board may in any case, allow notice for any period less than ten days which shall be sufficient notice as if given for ten days or longer.

Notice of  
application.

Board may  
vary length of  
time.

30. When the Board is authorized to hear an application, complaint or dispute, or make any order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient, notwithstanding any want of, or insufficiency in, such notice, make the like order or decision in the matter as if due notice had been given to all parties; and such order or decision shall be as valid and take effect in all respects as if made on due notice; but any person entitled to notice and not sufficiently notified may, at any time within ten days after becoming aware of such order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend or rescind such order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind such order or decision, or dismiss the application, as may seem to it just and right.

Procedure in  
urgent cases  
when no  
notice given.

Rehearing on  
application  
made within  
ten days after  
notice served.

31. All regulations and orders made by the Railway Committee of the Executive Council of Ontario in force at the time of the passing of this Act, shall continue in force until repealed, rescinded, changed or varied under

Regulations  
and orders  
of Railway  
Committee  
continue in  
force until  
repealed.

the



the provisions of this Act or the said Act and the Board shall have the like powers to repeal, rescind, change or vary the same, as in the case of regulations or of orders which the Board may make under this Act or the said Act.

Existing orders  
of Railway  
Committee  
may be made  
orders of court.

32. Notwithstanding the repeal by this Act or by the said Act of any Act relating thereto, all orders of the Railway Committee of the Executive Council of Ontario in force at the time of the passing hereof, may be made orders of the High Court of Justice, and may be enforced in all respects, as nearly as may be, in the same manner, as provided by this Act and the said Act in the case of similar orders by the Board; and all penalties, forfeitures and liabilities attaching, under this Act or the said Act to the violation of any regulation, or disobedience to any order of the Board, shall apply and attach to any violation of, or disobedience to, any regulation or order of the Railway Committee of the Executive Council occurring after the passing of this Act, in all respects as nearly as may be, as if the same were a regulation or order of the Board.

#### RAILWAY COMMITTEE TO HAVE POWERS OF BOARD UNTIL BOARD APPOINTED.

Railway  
Committee to  
have powers of  
Board, till  
Board  
constituted.

33. The Railway Committee of the Executive Council of Ontario shall have the powers and jurisdiction of the Board and it shall be the duty of the said Railway Committee to exercise the same until such time as the Board is constituted under this Act.

#### ORDERS OF BOARD MAY BE MADE ORDERS OF COURT.

Decisions or  
orders of  
Board may be  
made rules  
of court

34.—(1) Any decision or order made by the Board under this Act or the said Act may be made an order of the High Court of Justice, and shall be enforced in like manner as any order of such court.

Practice.

(2) To make such decision or order an order of such court, the usual practice and procedure of the court in such matters may be followed: or, in lieu thereof, the Secretary may make a certified copy of such decision or order, upon which shall be made the following endorsement signed by the Chairman and sealed with the official seal of the Board:—

"To move to make the within an order of the High Court of Justice.

"Dated this

day of

A.D. 19

"A. B.,  
(Seal.)

"Chairman of the Ontario Railway and  
Municipal Board."

And the Secretary may forward such certified copy, so endorsed, to the registrar, or other proper officer of such court, who shall on receipt thereof, enter the same as of record, and the same shall thereupon become and be an order of such court.

(3) Where an order or decision of the Board under this Act or the said Act or of the Railway Committee of the Executive Council of Ontario has been made an order of the High Court of Justice any order or decision of the Board rescinding or changing the same shall be deemed to cancel the said order, or decree of such court, and may, in like manner, be made an order of court.

When order  
rescinded or  
changed.

(4) It shall be optional with the Board to adopt the method provided by this section for enforcing its orders or decisions, or to enforce them by its own action.

Board may  
select method  
of enforcing  
order.

35. The Board may provide in any order that the same, or any specified portion or terms, thereof, shall come into force, at a future fixed time, or upon the happening of any specified contingency, event or condition precedent, or upon the performance to the satisfaction of the Board, or person named by it, of any terms which the Board may impose upon any party interested, and it may provide that the whole, or any portion of such order, shall have force for a limited time, or until the happening of any specified event. The Board may, instead of making an order final in the first instance, make an *interim* order, and reserve further order and direction to be made, either at an adjourned hearing of the matter, or upon further application.

Contingent  
orders.

Subject to  
terms.

Limited as to  
time.

Interim  
orders.

36. Upon any application made to the Board under this Act or the said Act, the Board may make an order granting the whole, or part only, of such application, or may grant such further, or other relief, in addition to, or substitution for, that applied for, as to the Board may seem just and proper, as fully in all respects as if such application had been for such partial, other, or further relief.

May grant  
partial or  
other relief  
than that  
applied for.

37. Whenever the special circumstances of any case seem to so require, the Board may make an *interim ex parte* order authorizing, requiring or forbidding anything to be done which the Board would be empowered on application, notice and hearing to authorize, require or forbid. No such interim order shall, however, be made for any longer time than the Board may deem necessary to enable the matter to be heard and determined.

Interim *ex*  
*parte* orders.

Proviso.

38. When any work, act, matter or thing is by any regulation, order or decision of the Board required to be done, performed or completed within a specified time, the Board may, if the circumstances of the case seem to so require, upon notice and hearing, or in its discretion upon *ex parte* application, extend the time so specified.

Extension of  
time specified  
in order.

39. The Board may make general rules governing, so far as shall not be inconsistent with the express provisions of this Act or the said Act, its practice and procedure.

May make  
rules govern-  
ing its  
procedure and  
practice.

ure

When to be  
judicially  
noticed.

ure under this Act and the said Act and generally for carrying this Act and the said Act into effect. Such rules may be published in the *Ontario Gazette*, and shall thereupon be judicially noticed, and shall have effect as if they were enacted in this Act. The Board may, upon terms or otherwise, make or allow any amendments in any proceedings before it.

Amendments.

Presumption  
of jurisdiction  
to make order

40. No order of the Board need show upon its face that any proceeding or notice was had or given, or any circumstance existed, necessary to give it jurisdiction to make such order.

Judgments of  
other courts on  
questions of  
fact not  
binding upon  
board.

41.—(1) In determining any question of fact, the Board shall not be concluded by the finding or judgment of any other court, in any suit, prosecution or proceeding, involving the determination of such fact, but such finding or judgment shall, in proceedings before the Board, be *prima facie* evidence only.

Jurisdiction  
Board not  
affected by  
collateral suits

(2) The pendency of any suit, prosecution or proceeding, in any other court, involving questions of fact, shall not deprive the Board of jurisdiction to hear and determine the same questions of fact.

Finding of  
Board on  
questions of  
fact conclu-  
sive.

(3) The finding or determination of the Board upon any question of fact within its jurisdiction shall be binding and conclusive on all courts.

May state case  
for opinion of  
Court of  
Appeal for  
Ontario.

42.—(1) The Board may, of its own motion or upon the application of any party, and upon such security being given as it directs, state a case, in writing, for the opinion of the Court of Appeal for Ontario upon any question which in the opinion of the Board is a question of law. A like reference may also be made at the request of the Lieutenant-Governor in Council.

Action  
thereon.

(2) The Court of Appeal shall hear and determine the question or questions of law arising thereon, and remit the matter to the Board with the opinion of the court thereon.

#### APPEALS.

Order of  
Board final.

43.—(1) Subject to the provisions of this section, every decision or order of the Board shall be final.

Appeal to  
Court of  
Appeal on  
questions of  
jurisdiction.

(2) An appeal shall lie from the Board to the Court of Appeal for Ontario upon a question of jurisdiction or upon any question of law, but such appeal shall not lie unless leave to appeal is given by the said court upon application and hearing the parties and the Board; the costs of such application shall be in the discretion of the judge.

(3)

(3) Upon such leave being obtained the party so appealing shall pay into court the sum of two hundred and fifty dollars, by way of security for costs, and thereupon the Registrar of the Court of Appeal shall set the appeal down for hearing on the first day of the next session; and the party appealing shall within ten days after the deposit, give to the parties affected by the appeal, or their respective solicitors by whom such parties were represented before the Board, and to the Secretary, notice in writing that the case has been so set down to be heard in appeal as aforesaid; and the said appeal shall be heard by such court as speedily as practicable.

Security for costs.

Notice of appeal.

(4) On the hearing of any such appeal the Court of Appeal may draw all such inferences as are not inconsistent with the facts expressly found by the Board, and are necessary for determining the question of jurisdiction, or law, as the case may be, and shall certify its opinion to the Board, and the Board shall make an order in accordance with such opinion.

Opinion of court.

(5) The Board shall be entitled to be heard, by counsel or otherwise, upon the argument of any such appeal.

Board may be heard by counsel.

(6) The Court of Appeal shall have power to fix the costs and fees to be taxed, allowed and paid upon such appeals, and to make rules of practice respecting appeals under this section, and until such rules are made the rules and practice applicable to appeals from the High Court of Justice to the Court of Appeal shall be applicable to an appeal under this Act.

Rules of court as to costs, etc.

(7) When the matter in controversy before the Board exceeds the sum or value of \$4,000 as well as where the matter in question relates to the duration of a privilege to operate a railway along a highway, or to the construction of an agreement between a railway company and a municipal corporation, or to any demand affecting the rights of the public or to any like demand of a general or public nature affecting future rights, an appeal shall lie to His Majesty in His Privy Council, and except as aforesaid no appeal shall lie to His Majesty in His Privy Council.

Appeals to Privy Council in certain cases.

(8) Neither the Board nor any member of the Board shall in any case be liable to any costs by reason or in respect of any appeal or application under this section.

Members of Board not liable for costs.

44. The Lieutenant-Governor in Council may at any time refer to the Board for a report, or other action, any question, matter or thing arising, or required to be done, under this Act or the said Act, or the Special Act, and the Board shall without unnecessary delay comply therewith.

Lieutenant-Governor in Council may refer to Board for report.



Costs.

45.—(1) The costs of and incidental to any proceeding before the Board shall be in the discretion of the Board, and may be fixed in any case at a sum certain, or may be taxed. The Board may order by whom and to whom the same are to be paid, and by whom the same are to be taxed and allowed.

Scale of costs.

(2) The Board may prescribe a scale under which such costs shall be taxed.

Expenses of works ordered by Board.

46. When the Board, in the exercise of any power vested in it by this Act or the said Act or the Special Act, in and by any order directs any structure, appliances, equipment, works, renewals, or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may order by what company, municipality or person, interested or affected by such order, as the case may be, and when or within what time, and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision, the same shall be provided, constructed, reconstructed, altered, installed, operated, used or maintained; and the Board may order by whom, in what proportion, and when, the cost and expenses of providing, constructing, reconstructing, altering, installing and executing such structures, equipment, works, renewals, or repairs, or the supervision (if any), or the continued operation, use or maintenance of the same, or of otherwise complying with such order, shall be paid.

Board may order by whom to be constructed and paid.

Proceedings instituted by Attorney-General.

47.—(1) Whenever the Board shall have reasonable ground for belief that the company, or any person or corporation is violating or has violated any of the provisions of this Act or the said Act, in respect of which violation a penalty may be imposed under this Act or the said Act, the Board may request the Attorney-General of Ontario to institute and prosecute proceedings on behalf of His Majesty the King against such company or person for the recovery of the penalty provided under this Act or the said Act, for such violation.

Application of 6 Ed. w VII., c. 30 as to penalties.

(2) All the provisions of the said Act as to penalties and the imposition and recovery thereof shall apply to penalties imposed under the authority of this Act.

Prosecution for penalty over \$100.

(3) No prosecution shall hereafter be had or penalty enforced against the company or any municipal corporation for any penalty under this Act or the said Act or the Special Act, without the leave of the Board being first obtained.

Penalties a first charge on railway.

(4) Where any penalty has been imposed upon the company under this Act or the said Act such penalty shall be the first lien or charge upon the railway, property, assets, rents and revenues of the company.

48. The Board may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute pending before such Board, or any matter or thing over which the Board has jurisdiction under this Act or the said Act or the Special Act, and may order and direct by whom and in what proportion the costs and expenses incurred in making such inquiry and report shall be paid, and may fix the amount of such costs and expenses.

Board may  
order  
inquiries.

49.—(1) The Board, inspecting engineer, or person appointed under this Act or the said Act to make any inquiry or report may:—

Powers  
respecting  
inquiries.

(a) enter upon and inspect any place, building, or works, being the property or under the control of any company, the entry or inspection of which appears to it or him requisite;

Entry.

(b) inspect any works, structure, rolling stock or property of the company;

Inspection.

(c) require the attendance of all such persons as it or he thinks fit to call before it or him, and examine, and require answers or returns to such inquiries as it or he thinks fit to make;

Attendance of  
witnesses and  
replies.

(d) require the production of all books, papers, plans, specifications, drawings and documents, relating to the matter before it or him;

Production of  
documents,  
etc.

(e) administer oaths, affirmations or declarations;

Oaths.

(2) And shall have the like power in summoning witnesses and enforcing their attendance, and compelling them to give evidence and produce books, papers or things which they are required to produce, as is vested in any court in civil cases.

Summoning  
witnesses and  
enforcing  
attendance.

50.—(1) Every person summoned to attend before the Board or before any inspecting engineer, or person appointed under this Act or the said Act to make inquiry and report, shall, in the discretion of the Board, receive the like fees and allowances for so doing as if summoned to attend before the High Court of Justice.

Witness fees.

(2) In any proceeding before the Board and in any action or proceeding under this Act or the said Act, every written or printed document purporting to have been issued or authorized by the company, or any officer, agent, or employee of the company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of such document by the company, and of the contents thereof, without any further proof than the mere production of such document.

Proof of  
documents.

## ADDITIONAL POWERS OF THE BOARD.

Assessment  
appeals.

51.—(1) The appeal provided for by section 76 of *The Assessment Act* shall be to the Board instead of to the Board of County Judges as therein provided.

Questions  
which may be  
decided on  
appeal.

(2) The Board shall have power upon such appeal to decide not only as to the amount at which the property in question shall be assessed, but also all questions as to whether any persons or things are liable to assessment or exempt from assessment under the provisions of *The Assessment Act*.

Appeal from  
Board.

(3) An appeal shall lie from the decision of the Board under this section to the Court of Appeal upon all questions of law, but such appeal shall not lie unless leave to appeal is given by the said court upon application of any party and upon hearing the parties and the Board.

Procedure on  
appeals.

(4) The practice and procedure on any such appeal shall be the same *mutatis mutandis* subject to any rule of court or regulation of the Board as upon an appeal from a County Court to the High Court.

Appeals in  
unorganized  
districts.

52.—(1) Instead of the appeal provided for by sub-section 1 of section 48 (a) of *The Act respecting the establishment of Municipal Institutions in Territorial Districts* being to a judge of the High Court in Chambers in Toronto, it shall be to the Board.

One member  
may hear  
appeal.

(2) One member may act as and for the Board in the hearing and determining of the appeal mentioned in this section.

Municipal  
powers.

53. The Board shall have all the powers conferred by *The Consolidated Municipal Act, 1903*, and amending Acts, upon the Lieutenant-Governor in Council regarding,—

(a) The addition to or taking from any municipality any territory;

(b) The annexation of any territory to any city or town;

(c) The alteration in any manner of the boundaries or limits of any municipality;

(d) The approval or confirmation of by-laws relating to finance, debentures, sinking funds or the creation of debts, in cases where the approval or confirmation of the Lieutenant-Governor in Council is required by *The Consolidated Municipal Act, 1903*, or any other Statute of this Province.

(e) The approval or confirmation of by-laws relating to public highways, roads, streets, or bridges, to street or electric railways or to gas or waterworks or to any other industry or concern commonly known as a public utility, in cases where the approval or confirmation of the Lieutenant-Governor in Council is required by *The Consolidated Municipal Act, 1903*, or any other Statute of this Province.

54.—(1) The Board may also require any telegraph, tele-  
phone, electric light, power or heat company or any person  
operating any telegraph, telephone, electric light, power or  
heat system to adopt such means and appliances, and to take  
and use such precautions, as the Board may deem neces-  
sary or expedient for the safety of life and property.

Telegraph and  
telephone  
wires, &c.

(2) The Board shall, in respect of the matters provided  
for by the last preceding subsection, have the like juris-  
diction, powers and authorities as are vested in it with  
respect to railways and railway companies under "*The  
Ontario Railway Act, 1906,*" and under this Act, and the  
powers conferred by this section may be exercised as to a  
part of a highway, and as to some only of the lines of any  
such company or person, or as to a part or parts thereof.

Jurisdiction  
of Board.

#### ENQUIRIES INTO FACTS FOR GOVERNMENT, ETC.

55. The Board shall in all cases when required so  
to do by the Lieutenant-Governor in Council, the Legisla-  
ture or by any Committee thereof, make, or cause to be  
made under its supervision, an enquiry into any facts  
which the Lieutenant-Governor in Council, Legislature or  
any such Committee may desire to ascertain before pass-  
ing upon the propriety of any proposed change in the gen-  
eral railway law, or upon any proposed private or special  
Bill or Act relating in any way to a municipal corpora-  
tion or to a railway or street railway company or to any  
corporation or person operating or proposing to operate  
what is commonly called a public utility, and upon the  
conclusion of such enquiry the Board shall report to the  
Legislature or to such Committee its opinion upon such  
proposed change in the law, or upon such Bill or Act.

Board to  
enquire and  
report on cer-  
tain matters at  
request of  
Government or  
Legislature.

#### ANNUAL REPORT OF BOARD.

56. The Board shall make an annual report on or be-  
fore the 31st day of January in each year to the Lieut-  
enant-Governor in Council which shall contain—

Annual report.

1. A record of its meetings and an abstract of its pro-  
ceedings during the preceding calendar year.

2. The result of any examination or investigation con-  
ducted by it.

3. Such statements, facts and explanations as will dis-  
close the actual workings of the system of railway trans-  
portation in its bearing upon the business and prosperity  
of the Province, and such suggestions as to the general  
railway policy of the Province, of the amendment of its  
laws, or the condition, affairs or conduct of any railway  
or street railway, as may seem to it advisable.



4. Such tables and abstracts of all the reports of all the railway and street railway companies as it may deem expedient.

5. A statement in detail of the travelling expenses and disbursements of the Board, its Secretary and officers.

May require statements, etc., from public utilities operated by municipalities.

57. The Board shall superintend the system of bookkeeping and keeping accounts of the assets, liabilities, revenue and expenditure of all public utilities that are operated under the control of a municipal corporation or of a commission appointed by a municipal corporation, and may require from any such municipal corporation or commission such returns and statements as to the Board may seem proper and may extract from such books, returns and statements such information as in the opinion of the Board may be useful for publication, and may embody such portions of such returns and statements in the annual report of the Board as to it may seem proper.

#### ARBITRATION BY THE BOARD IN CASES OF LABOUR DISPUTES.

May arbitrate labor difficulties.

58.—(1) A grievance or dispute between a railway or street railway company and its employees may be submitted to the Board for its determination and settlement. The submission shall be in writing, and may contain a statement in detail of the grievance or dispute and the cause thereof, and also an agreement to abide by the determination of the Board, and to continue in business or at work, without a lockout or strike during the investigation.

Duty of Board upon submission.

(2) Upon such submission the Board shall investigate and determine the matters in controversy, and shall render its decision within ten days after the completion of the investigation.

Procedure in such cases.

(3) The proceedings shall, as nearly as may be, be the same as in the case of any other enquiry which the Board is authorized to make, but the Board may regulate the proceedings, and the manner of conducting them, as to the Board may seem meet.

#### MEDIATION IN CASE OF STRIKE OR LOCKOUT.

To endeavour to mediate in case of strikes.

59.—(1) Whenever a strike or lockout of the employees of any railway or street railway company or public utility occurs, or is seriously threatened, the Board shall proceed as soon as practicable to the locality thereof, and endeavour by mediation to effect an amicable settlement of the controversy.

May enquire into cause of strikes and suggest terms of settlement.

(2) Wherever there shall exist in any railway or street railway or public utility a strike or lock-out or any strike or lock-out by reason of which in the opinion of the Board the

the general public shall appear likely to suffer injury or inconvenience with respect to food, fuel or light or power or the means of communication or transportation, or in any other respect, and the parties to such strike or lock-out will not consent to submit the matter or matters in controversy to the Board, the Board, after first having made due effort to effect a settlement thereof by conciliatory means and such effort having failed, may proceed on its own motion to make an investigation of all facts bearing upon such strike or lock-out, and shall make public its findings, with such recommendations to the parties involved, as, in its judgment, will contribute to a fair and equitable settlement of the differences which constitute the cause of the strike or lock-out and in the prosecution of such enquiry the Board shall have all the powers conferred upon it by any other section or sections of this Act.

#### FEEs TO BE CHARGED AND COLLECTED BY THE BOARD.

60. The Board may charge and collect such fees, as to it may seem proper, for all copies of documents, maps or plans, and all certificates as to the same. All fees charged and collected by the Board shall be paid quarterly, accompanied with a detailed statement thereof, to the Treasurer of the Province.

Fees for copies, certificates, etc.

61. There shall be paid in law stamps upon every order made by the Board such sum as may be directed by the Board, regard being had to the time occupied by the Board and its officers and the expense occasioned to the Province in the matter, and such law stamps shall be provided in the first instance by the applicant for such order, and such sum shall be a debt due by the applicant to His Majesty, and a summary order may be made for payment thereof by the Board, which order may be made an order of the High Court of Justice.

Fees on orders of Board to be paid in stamps.

62. The annual expense of the Board, including the salaries of the members thereof, and of its officers and employees, and the incidental expenses of the Board shall be paid out of the Consolidated Revenue Fund of the Province of Ontario from such sums as may be granted from time to time by the Legislature.

Expenses of Board to be paid by Province.

#### ENFORCEMENT OF MUNICIPAL AGREEMENTS.

63.—(1) Where it is alleged by a municipal corporation having jurisdiction over, or owning, or maintaining a highway, along which a railway is operated, in whole or in part, under an agreement between such municipality and the company operating the railway, that the company has violated or committed a breach of such agreement, or where it is alleged by such company, that such municipality has violated

To try all cases of breach of agreement.

violated or committed a breach of such agreement, the Board shall hear all matters relating to such alleged violation or breach of agreement, and shall make such order as to the same as to it may seem, having regard to all the circumstances of the case, reasonable and expedient, and in such order may in its discretion direct the company or the municipality to do such things as are necessary for the proper fulfilment of such agreement, or to refrain from doing such acts as constitute a violation or a breach thereof.

May enter  
company's  
property.

(2) The Board may take such steps and employ such persons as may be necessary for the proper enforcement of such order, and in pursuance thereof may forcibly or otherwise enter upon, seize and take possession of the whole or part of the railway, and the real and personal property of such company together with its books and offices and may, until such order has been enforced, assume and take over all or any of the powers, duties, rights and functions of the directors and officers of such company and supervise and direct the management of such company and its railway in all respects, including the employment and dismissal of officers and servants of the company for such time as the Board shall continue to direct such management.

Company's  
servants to  
obey Board.

(3) Upon the Board so taking possession of such railway and property, it shall be the duty of every officer and employee of the company to obey the orders of the Board or of such person or persons as it may place in authority in the management of any or all departments of such railway.

May pay out  
and receive  
money.

(4) The Board shall, upon so taking possession of such railway and property, have power to demand, receive and pay out all moneys due to or owing by such company, and may give checks, acquittances and receipts for moneys to the same extent and in as full and ample a manner as the proper officers of such company could do if no such order had been made.

May give  
receipts etc.

(5) Checks, acquittances or receipts so given by the Board shall be a defence to any action that may afterwards be brought by such company against the person or corporation paying over the money for which such checks, acquittances or receipts were given.

Board not  
liable for  
damages.

(6) The Board and the members thereof, and its officers and employees shall not be liable to any action for acts done by them or any of them under the authority of this section.

Costs.

(7) The costs and expenses of and incidental to proceedings to be taken by the Board under this section shall be in the discretion of the Board, and the Board shall have power to direct by whom and to what extent the same shall be paid.

(8) The certificate of the Board as to the amount of such costs and expenses shall be final.

Certificate as to costs, etc., to be final.

64. Except when otherwise expressly provided, notwithstanding anything in this Act, or the said Act, or in any agreement contained, in any proceeding under this Act, the Board shall have power to construe and determine the proper meaning of, but not to alter or vary any agreement between a municipal corporation and a company, or between two or more companies, and the decision of the Board on any question of fact shall be final.

To construe agreements.

65. This Act shall not affect any action or other proceeding pending at the time of the coming into force of this Act.

Pending suits.

66. This Act shall come into force on the first day of June, 1906.

Commence-  
of Act.



















